Ontario

Ontario Criminal Injuries Compensation Board 1987/88

Nineteenth Report

THE

NINETEENTH REPORT

of the

ONTARIO

CRIMINAL INJURIES COMPENSATION BOARD

administering

THE COMPENSATION FOR VICTIMS OF CRIME ACT

for

the fiscal year

April 1, 1987 to March 31, 1988

90-00510/

THE BOARD

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J. H. SHEARD	Chief of Investigations
F. G. SUTER	Manager Compensation Claims

★ ★ ★ ★ ★ ★ ★

Copies of this report may be obtained from:

Criminal Injuries Compensation Board
17th floor, 439 University Avenue,
Toronto, Ontario M5G 1Y8

Telephone: (416) 965-4755

Ontario

Office of
The Chairman

Cabinet du
Président

Criminal Injuries
Compensation
Board

Commission d'indemnisation
des victimes d'actes
criminels

439 ave. University Ave.
17th Floor/17e étage
Toronto, Ontario
M5G 1Y8
(416) 965-4755

The Honourable Ian Scott,
Attorney General for Ontario,
Parliament Buildings,
Queen's Park,
Toronto, Ontario

Honourable Sir:

I have the honour to submit the Nineteenth Report of the Criminal Injuries Compensation Board, which covers the period April 1, 1987 to March 31, 1988.

Sincerely,

Wendy L. Calder

(Mrs.) Wendy L. Calder
Chairman

Program Description

The Legislation

The legislation under which the Board functions is the Compensation for Victims of Crime Act, which came into force on September 1, 1971 superseding The Law Enforcement Compensation Act, 1967.

The Board is required by the Act to find the commission of a crime of violence (in the principal class of applications coming before it). A basic qualification for the consideration of an award is that there must be adequate and reliable evidence in this regard. In addition, the Board is required to consider all relevant circumstances including the behaviour of the victim at the time of the incident and the co-operation given by the victim to the law enforcement agencies.

Section 6 of the statute prescribes a one-year limitation period of filing an application for compensation, but the Board may extend the time as it considers warranted. During the year, 205 requests for extension of the limitation period were approved and 22 were denied.

Compensation

The Compensation for Victims of Crime Act presently provides that compensation for victims of crimes of violence may be paid up to the following maximums:

In the case of lump sum payments, up to $25,000.00 and in the case of periodic payments, up to $1,000.00 per month, and where both lump sum and periodic payments are awarded, the lump sum shall not exceed half of the maximum, which is $12,500.00.

These new maximums were enacted in November, 1986.

Subrogation

The Board is subrogated to all the rights of any person to whom the payment is made under this Act, to recover damages from the offender by civil proceedings in respect to injury or death. The sum of $52,352.00 was recovered during the fiscal year, compared to previous years, as follows:

1986/87	$61,962.00
1985/86	68,729.00
1984/85	62,991.00
1983/84	38,679.00
1982/83	26,834.00

Hearings

The Board, composed of a full-time Chairman, one full-time Vice-Chairman, one part-time Vice-Chairman and twelve part-time members, usually sits in panels of two.

Although a large number of Hearings were held in Toronto, during the fiscal year Hearings also took place in Thunder Bay, Sudbury, Sault Ste. Marie, Windsor, London and Ottawa. This is done routinely to facilitate applicants, and to generate a better understanding of the work of the Board across the province. In addition, this practice results in reduced costs to the Board.

Documentary Evidence Hearings

Some applications are relatively minor and simple of adjudication. Therefore, with the consent of the applicants, they are dealt with on documentary evidence alone. A total of 265 were heard in this manner during the fiscal year compared to 44 in 1986/87.

This approach minimizes the need to inconvenience the applicant and/or solicitor and witnesses insofar as travelling to the location of Hearings, the attendant loss of work time and expenses involved.

Child Abuse

During this fiscal year the Board received 166 applications in respect of child abuse, heard 63 cases and awarded $515,979.69.

Administration and Productivity

The administrative staff of the Board is composed of the Chief Administrative Officer, Chief of Investigations, three Investigators, Manager of Compensation Claims, five Compensation Analysts and a clerical, secretarial, and stenographic staff of fifteen.

In this fiscal year, the Board heard 1176 applications and 1315 awards were ordered. The larger number of awards ordered over the applications heard is accounted for by the number of awards made on applications heard in the previous fiscal year.

The total value of awards increased from $4,310,085.00 in 1986/87 to $5,954,958.00 in 1987/88. Of this amount $1,220,003.00 was in the form of periodic payments.

The number of applications received increased from 2000 in 1986/87 to 2247 in this fiscal year. Due to heightened public interest in the welfare of injured victims of crime, it is anticipated that the application rate will continue to escalate.

Public Awareness

Large posters and explanatory pamphlets in five languages are supplied to hospital emergency wards and staff lounges, Court Houses and other public buildings, supermarkets, etc.

Police forces throughout the province have been supplied with hundreds of thousands of wallet-sized cards (as shown) to be given to victims of crimes of violence advising them how to apply to the Board.

The daily Hearing agenda and a selection of typical Board Orders are provided to the news media, and others upon request.

Cost Sharing

Awards made under the Compensation for Victims of Crime Act are cost shared between the Federal Government and the Government of Ontario. The contribution by the Federal Government amounts to the lesser of 50% of the awards (net of any recoveries), or ten cents per capita of the population of the Province. For the fiscal year 1986/87, this share amounted to $918,200.00. The Federal Government does not share administrative costs.

Ontario

ONTARIO CRIMINAL INJURIES COMPENSATION BOARD

Injured innocent victims of violent crimes may be eligible for compensation from the above Board. Reporting to, and co-operating with, the Police, is an important consideration. If you feel you may qualify, contact the Board immediately at (416) 965-4755, or write to 439 University Avenue, 17th Floor, Toronto, Ontario, M5G 1Y8.

(9/8/83)

Ontario

COMMISSION D'INDEMNISATION DES VICTIMES D'ACTES CRIMINELS DE L'ONTARIO

La Commission susmentionnée peut accorder une indemnisation aux victimes innocentes d'actes criminels violents qui ont été blessées. Il est primordial de contacter la police et de collaborer avec elle. Si vous pensez avoir droit à une indemnisation, veuillez contacter immédiatement la Commission, en téléphonant au (416) 965-4755, ou en écrivant à l'addresse suivante: 439, avenue University, 17r étage, Toronto, Ontario M5G 1Y8.

(9/8/83)

Applications by Area
April 1, 1987 to March 31, 1988

Acton	2	Barrie	8	Burleigh Township	1
Ajax	2	Beamsville	2	Burlington	19
Alexandria	1	Bearskin Lake	1	Buttonville	1
Algonquin Park	1	Beechburg	1	Cache Bay	1
Alliston	2	Belleville	6	Caesarea	1
Alviston	1	Bentiok Township	1	Calstock	1
Amherstburg	4	Binbrook	1	Cambridge	14
Ancaster	1	Blind River	3	Campbellford	2
Angus	1	Bobcaygeon	1	Capreol	1
Armstrong	1	Bowmanville	5	Carleton Place	1
Arnprior	5	Bracebridge	1	Chatham	14
Arthur	1	Bramalea	3	Clinton	1
Atikokan	1	Brampton	21	Cobden	1
Aurora	1	Brantford	27	Cobourg	4
Badjeros	1	Brockville	14	Cochrane	2
Bala	1	Bruce Township	1	Collingwood	5
Bancroft	1	Burford	1	Collins Bay	1

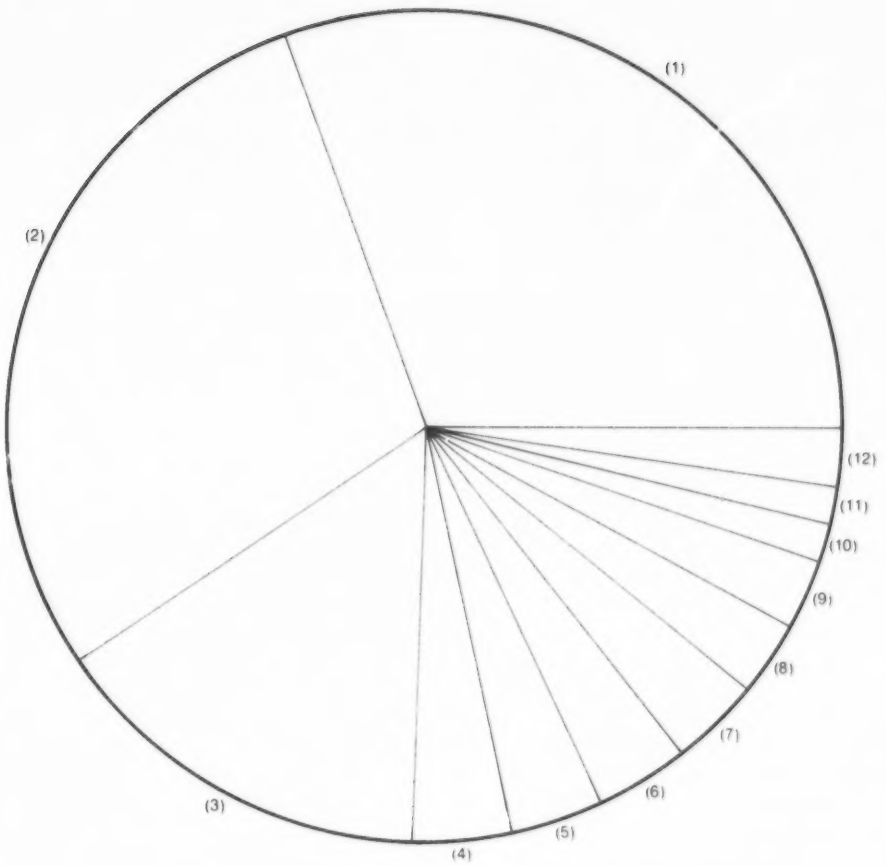
Applications by Area (cont'd)
April 1, 1987 to March 31, 1988

Constance Lake	1
Cornwall	6
Courtland	1
Crystal Beach	1
Cumberland	3
Delhi	1
Delora	1
Desoronto	2
Dresden	2
Dryden	2
Dufferin City	1
Dundalk	3
Dundas	2
Dunnville	1
Ear Falls	1
Echo Bay	1
Elk Lake	1
Ellice Township	1
Elliot Lake	4
Emodet	1
Espanola	1
Essex	1
Exeter	2
Fenelon Falls	1
Ferris	1
Fitzroy	3
Foleyet	1
Forest	1
Fort Erie	6
Fort Francis	1
Frankford	1
Fruitland	1
Gananoque	3
Garson	1
Georgetown	2
Gloucester	8
Grand Bend	1
Grassy Narrows	1
Greely	1
Guelph	10
Hagersville	2
Haileybury	1
Haliburton	1
Hamilton	124
Hanmer	1
Hanover	1
Harrow	1
Hawkesbury	2
Heron Bay	1
Ingersoll	3
Johnstown	1
Joyceville	1
Kakebeka Falls	1
Kanata	2
Kapuskasing	2
Keejick Bay	1
Kenora	2
Killahoe	1
King Township	1
Kingston	42
Kingsville	3
Kinnaut	1
Kitchener	11
Lancaster	1
Leamington	6
Limoges	1
Lindsay	1
L'Original	1
Lisle	1
Little Current	1
London	91
Lynden	1
Madoc	1
Malahide Township	2
Malton	4
Manitoulin Island	1
Marathon	2
Markdale	1
Markham	1
Matheson	2
Meaford	1
Merlin	1
Merrickville	1
Middlesex	1
Midland	1
Millbrook	1
Mimico	2
Mississauga	47
Moosonee	2
Mount Forest	1
Muncey	1
Napanee	3
Nepean	11
Newbury	1
Newmarket	1
New Osnaburgh	2
Niagara	4
Niagara Falls	33
Nipigon	2
Norfolk	1
North Bay	5
Northumberland	4
Oakville	2
Ohsweken	1
Orangeville	1
Orillia	4
Orleans	2
Oshawa	28
Ottawa	94
Owen Sound	1
Oxdrift	1
Paris	2
Peawanuck	1
Peel County	2
Pefferflaw	1
Pembroke	2
Penetanguishine	8
Perth	1
Peterborough	15
Petrolia	4
Phelp Township	1
Pickering	9
Picton	2
Pigeon Lake	1
Point Edward	1
Porcupine	1
Port Colborne	3
Port Credit	1
Port Dover	2
Port Hope	2
Port Perry	1
Powassen	1
Prescott	1
Rainham	1
Richmond Hill	5
Ridgetown	2
Ridgeway	1
St. Jacobs	4
St. Catharines	49
St. Thomas	8
Sarnia	9
Sault Ste. Marie	25
Schreiber	2
Shannonville	2
Sharbot Lake	1
Shelburne	3
Simcoe	6
Sioux Lookout	2
Smith Falls	2
Smithville	1
South River	1
Stayner	1
Stoney Creek	6
Stouffville	1
Stratford	4
Strathroy	2
Sturgeon Falls	3
Sudbury	30
Sutton	1
Tavistock	1
Tecumseh	3
Terrace Bay	1
Thorold	5
Thunder Bay	48
Tilbury	1
Tillsonburg	7
Timmins	6
Toronto	903
Township of Sidney	1
Trenton	3
Tyendinaga	1
Upsala	1
Vanier	9
Vaughan	1
Wallacebury	3
Warkworth	1
Wasaga Beach	1
Waterdown	1
Waterford	1
Waterloo	8
Wawa	2
Welland	15
Wendover	1
Werner	1
Westminster Township	1
Weston	2
Whitby	9
Wikwemikong	2
Windsor	77
Wingham	1
Woodbridge	2
Woodstock	5
TOTAL	**2,247**

Types of Crime as Listed on Applications

Common Assault	681
Assault Causing Bodily Harm	669
Sexual Assault	343
Robbery with Violence	84
Assault Police	83
Murder	83
Attempt Murder	74
Aggravated Assault	64
Assault with a Weapon	56
Wounding	33
Resist Arrest	31
Criminal Negligence Causing Bodily Harm	17
Arson	10
Dangerous Use of Firearms	5
Manslaughter	4
Common Nuisance Causing Harm	3
Intimidation by Violence	2
Explosive Substance Causing Bodily Harm	2
Illegal Confinement	2
Causing Bodily Harm with Intent	1
Total:	**2,247**

NB: The above statistics include 166 cases listed under the Criminal Code and commonly referred to as "Child Abuse".



1) Common Assault	30.3%	7) Attempted Murder	3.3%
2) Assault Causing Bodily Harm	29.8%	8) Aggravated Assault	2.8%
3) Sexual Assault	15.4%	9) Assault with a Weapon	2.5%
4) Robbery with Violence	3.7%	10) Wounding	1.5%
5) Assault Police	3.6%	11) Resist Arrest	1.4%
6) Murder	3.6%	12) Other	2.1%

Note: "Child Abuse." The above statistics listed under the terminology of the Criminal Code include 166 cases commonly referred to as "Child Abuse". Family violence cases, especially wife battering, are encompassed within the various categories of assault.

COMPARATIVE SUMMARY

of

APPLICATIONS AND DISPOSITION

BY FISCAL YEARS

APRIL 1, 1987 to MARCH 31, 1988

COMPARATIVE SUMMARY — FISCAL YEARS
APPLICATIONS AND DISPOSITION

	April 1, 1984 to March 31, 1985	April 1, 1985 to March 31, 1986	April 1, 1986 to March 31, 1987	April 1, 1987 to March 31, 1988
Eligible applications received	1697	1799	2000	2247
Applications heard (1)	1041	1233	1141	1176
Applications heard on documentary evidence	132	81	44	265
Applications heard but denied	67	48	51	86
Review of awards	6	3	6	11
Decisions completed and awards ordered (2)	1086	1220	1376	1315
Files closed	415	455	489	323
Interim awards	5	7	7	7
Supplementary awards	76	81	268	157
Periodic awards	15	15	21	19
Lump sum payments	$2,693,372.73	$3,382,775.91	$3,539,159.10	$4,734,953.00
Periodic payments	$ 592,510.81	$ 617,499.36	$ 770,926.26	$1,220,003.00
Total of awards ordered	$3,285,883.54	$4,000,275.27	$4,310,085.36	$5,954,956.00
Average award (3)	$ 2,480.08	$ 2,772.76	$ 2,451.54	$ 3,652.84

NOTE:

(1) Includes Heard on Documentary Evidence, Heard but Award Denied and Heard but Further Evidence Required, but does not include files closed.

(2) Includes Interim, Supplementary and Periodic Awards.

(3) Periodic Payments not included when arriving at Average Award.

CONSOLIDATED SUMMARY OF AWARDS
APRIL 1, 1987 TO MARCH 31, 1988

Months	No. of Awards	Medical Expenses	Loss of Earnings	Pecuniary Loss to relatives of Deceased Victim	Pain and Suffering	Funeral Expenses	Other Pecuniary Loss	Legal Fees	Total Lump Sum Awards	Total Monthly Awards
		$	$	$	$	$	$	$	$	$
April	25	305	5,049		44,100	2,500	5,737	3,250	60,941	100,246
May	40	1,821	3,767		89,800	2,592	13,165	3,050	114,195	100,346
June	102	7,351	15,663		241,400	2,500	16,157	11,985	295,057	100,522
July	102	15,445	19,949	300	302,615	595	22,172	17,175	378,251	102,322
August	133	15,638	62,583		368,600	16,202	24,028	16,875	503,926	100,672
September	151	12,035	50,934	31,500	455,025	17,032	24,957	22,600	614,083	102,684
October	70	5,886	44,264	31,241	209,650	2,700	12,133	9,650	315,523	102,102
November	155	9,748	53,072	18,474	442,350	16,528	27,036	19,450	586,658	102,812
December	99	3,771	22,003	3,872	234,600	11,332	30,396	11,050	317,024	104,454
January	75	12,632	9,370		169,950	4,677	14,849	6,450	217,928	100,615
Febuary	145	41,884	81,564	7,200	425,150	5,300	31,365	17,115	609,578	100,865
March	218	40,395	43,186		565,600	5,400	44,033	23,175	721,789	102,366
Total	1,315	166,911	411,404	92,587	3,548,840	87,358	266,028	161,825	4,734,953	1,220,006
		3.52%	8.69%	1.95%	74.95%	1.85%	5.62%	3.42%		

Combined Totals of Lump Sum and Monthly Awards 5,954,959

EXAMPLES OF DECISIONS
April 1, 1987 to March 31, 1988

THE BOARD ORDER — AN EXPLANATORY NOTE

The awarding of compensation to victims of crime is accomplished through the issuance of a Board Order, or decision, which is the Criminal Injuries Compensation Board's key legal instrument for action.

Under the Compensation for Victims of Crime Act which the Board administers, Section 7 enumerates the heads of damages for which compensation may be awarded. The majority of Board Orders fall into this category.

Section 14 of the Act stipulates that in cases of actual financial need, and where there is a probability that compensation will ultimately be awarded, the Board may order interim payments to the applicant.

Section 22 of the Act provides for an order for costs, usually those entailed in making, or providing support to, an application.

Section 25 of the Act, however, is one of the more humane provisions in the Board's statute. Notwithstanding that the Board has already dealt with an application and its decision has been reflected in an Order, where subsequently

(a) new evidence has become available, or

(b) change of circumstances has occurred, or

(c) the Board considers any other matter relevant, on the application of any of the parties to the proceedings; the Board may vary the terms of the original order on such terms as it thinks fit. Thus, an application, once heard, frequently remains open to review under the circumstances envisaged in this position.

Section 4 provides for the periodic publication of the Board's decisions, and the reasons therefore, providing a useful guide for applicants and solicitors.

As well as being provided to parties to the proceedings, copies of Board Orders are furnished to the media, students and to a number of institutions. An exception to the latter would be where, for reasons stipulated in the Act, a Hearing is held in camera or publication is restricted.

Examples of Decisions

FILE: 922-015516

The female applicant was returning to her family home on October 29, 1985 when she was accosted by the offender, the brother of her estranged spouse, who was armed with a hand gun. As she turned to run away the offender shot, hitting her in the right arm. The offender was apparently attempting to avenge his brother's reputation. Threats had been made against the applicant and her family prior to this incident.

The bullet had entered and exited through the right arm without damaging any major blood vessels or nerves. However, the radius was shattered and as a result the applicant spent ten days in hospital for the initial repairs and a further ten days a month later to have a bone graft done. She suffered complications and underwent eight months of physiotherapy. She was also absent from work for eight months

The applicant will require surgery in order to remove a plate. The Board will consider compensation under Section 25 for further lost wages, if there are any, at that time.

The offender was convicted of aggravated assault and certain firearm offenses and was sentenced to seven years penitentiary and subsequent deportation.

The Board found the applicant qualified under section 5 (a) and awarded $266.00 expenses 7 (1) (a); $5,502.08 pecuniary loss—dependants 7 (1) (c); 5,000.00 pain & suffering 7 (1) (d); $45.00 other pecuniary loss 7 (1) (f) and $150.00 to a doctor for a total award of $10,963.08.

FILE: 922-012469

The applicant, a 24 year old male, had been dating the offender's separated wife for about a month. The couple had been attending an all night party in a friend's home. They had retired to a rear room where they were lying fully clothed on the bed. About 5:00 PM on March 17, 1984 the offender, who had not been drinking, entered and emptied his rifle into the applicant.

The applicant received gunshot wounds to both knees, the right forearm, right shoulder and back. He underwent a number of operations but has been left with ongoing knee problems. In spite of a tendon transfer he is still unable to fully flex his right wrist. These injuries have seriously affected his sporting activities and employment possibilities.

The offender was sentenced to 11 months for aggravated assault and 12 months for using a firearm in the commission of an indictable offense, consecutive plus 2 years probation.

The Board found the applicant compensable under Section 5 (a) and awarded $7,500.00 for pain and suffering 7 (1) (d); $251.00 for other pecuniary loss 7 (1) (f) as well as $350.00 for legal fees and $526.20 for disbursements. The applicant's mother was awarded $264.00 for mileage transporting her son to medical treatment for a total award of $8,891.20.

FILE: 922-015410

The applicant, a book store clerk, was living common-law with the offender's estranged wife and child. They returned to their apartment about 8:45 PM on December 14, 1985 to find the offender awaiting them, armed with a rifle. After tying up the two separately he attacked the applicant with a knife. The applicant was severely stabbed several times in the chest and stomach before he could work himself free, and several times after in the arms as he tried to defend himself.

The applicant was rushed to hospital. When he was stabilized sufficiently he was sent on to another hospital for surgery on the multiple stab wounds to the neck, chest and upper abdomen. He required a surgical thoractomy to repair a stab wound to the right ventrate of the heart. Bleeding from the jugular vein was stopped and other chest and neck wounds were repaired. Finally an exploratory laparotomy was performed but no evidence of intra-abdominal injury was found. The applicant has been left severely scarred.

The Board was impressed by the way the applicant was dealing with the aftermath of a violent and terrifying occurrence in spite of the significant emotional trauma which continue.

The offender committed suicide within hours of the occurrence.

The Board found the applicant qualified under Section 5 (a) and awarded $12,000.00 for pain and suffering 7 (1) (d); $172.00 for expenses 7 (1) (a); $861.96 for pecuniary loss-victim 7 (1) (b) and $93.50 other pecuniary loss 7 (1) (f) for a total award of $13,127.46.

FILE: 922-016413

The 22 year old male applicant was shot by his mother's common-law spouse on May 30, 1986 in her home. The applicant, his common-law wife and their child were residing with his mother and the offender who had been drinking during the course of the evening. About 11:00 PM the offender left the apartment after a dispute and returned shortly after with a gun. While the applicant attempted to wrest this gun away from the offender it discharged into his stomach area. The applicant then proceeded to assault the offender.

The bullet went through the applicant's body and exited through his back without causing internal damage. The bullet was deflected off a rib as it passed through. The applicant was hospitalized for six days and then recuperated for a further month at his mother's. The rib which had deflected the bullet was fractured and caused the applicant some pain. However, he was fully recovered within six months except for some occasional pain when he twists his body in a certain direction.

The applicant made a claim for a wage loss. However, he had been employed for only two weeks directly prior to the occurrence and was unable to document his wage loss. The Board was therefore unable to make an award on this aspect of his claim.

The offender was sentenced to six months for weapons offences.

The Board found that the application qualified under Section 5 (a) and awarded $3,000.00 pain & suffering 7 (1) (d) and authorized payment of the $22.00 ambulance charge for a total award of $3,022.00.

FILE: 922-015134

On August 25, 1985 the then 17 year old applicant, a high school student, was spending a summer day with two of his friends at target practice with their pellet guns. Initially they had been practicing in the applicant's spacious back yard but later in the afternoon, after having purchased some pizza, they continued the target practice firing from the applicant's bedroom window using both the applicant's pellet rifle and the young offender's recently acquired pellet gun. About 5:50 PM they were casually passing the time and handling the loaded guns. The young offender, who was sitting across from the applicant, raised the applicant's rifle, aimed it at him and according to the applicant's testimony said, "I could shoot you in the eye from here." The gun discharged and the pellet struck the applicant in the left eye. It would have been necessary to release the safety catch. The applicant rushed downstairs and his mother called an ambulance. The young offender testified at the hearing that they were just kidding around and that he could not remember saying he could shoot the applicant, nor pulling the trigger and that he had no animosity which would have caused him to shoot deliberately. The third youth's testimony confirmed that of the applicant.

The applicant was taken to hospital. An x-ray and a CT scan revealed the pellet embedded in the left orbital apex. It did not pierce the eyeball. The applicant remained in hospital about a week during which time the oedema of the tissues subsided and the vision improved. The prognosis is excellent and no future blindness is to be feared. The pellet has become encapsulated and will probably remain inactive for the rest of the applicant's life. He was informed of the provisions of Section 25.

The young offender was convicted of criminal negligence causing bodily harm and sentenced to a year's probation with a weapons prohibition during the period of the probation order.

The Board found the application qualified under Section 5 (a) and awarded $65.00 expenses 7 (1) (a); $3,000.00 pain & suffering 7 (1) (d) and disbursements of $591.00 for a total award of $3,656.00.

FILE: 922-012243

An extension of the limitation period was granted for this application. With the applicant's consent, this application was considered solely on the basis of the documentation filed.

The 25 year old male applicant was entering an apartment recreation centre on November 20, 1982 to attend a party. As he descended the stairs to enter the centre he heard the sound of gun shots then felt a sudden pain in his left side. He ran back up the stairs, reached for the wound and realized he had been shot. The investigating police officer informed the Board that the applicant had been struck by a stray bullet during a murder attempt on another person present at the same party.

The applicant went to hospital by taxi. The doctor reported a gunshot wound originating in the left lower chest ranging from the posterior left flank through the left lower lobe and emerging about the eighth interspace anteriorly. At the time of the applicant's discharge from hospital there was some residual fibrosis and loss of volume in the lower lobe which the doctor stated might improve with renewed activity. A later report filed from New York speaks of dizziness and an itching sensation. No further medical reports were submitted.

The alleged offender was acquitted on a charge of attempted murder.

The Board found the applicant qualified under Section 5 (a) and awarded $2,000.00 for pain and suffering 7 (1) (d).

FILE: 922-014971

On August 9, 1985, the unemployed 25 year old female applicant was preparing to set out on a boat cruise with a group of her girlfriends. These friends had dropped by her apartment to pick her up. While she was finishing dressing the alleged offender entered the apartment, pointed a gun at his former common-law partner and shot her in the head. When the applicant spoke to the alleged offender, he pointed his gun at her and shot her in the back as she tried to escape through a window of the first floor apartment. She asked a passerby to call police.

The applicant was taken by ambulance to hospital where she was treated for a gunshot wound. The bullet had entered the posterior aspect of the right chest by the scapula and made its exit through the upper outer quadrant of the breast. She was treated for soft tissue injury and discharged the next day. The recovery was uneventful. However, she feels uneasy in the presence of fights or disputes and has found it necessary to move to a new apartment to avoid the associations raised by the old.

No criminal charges were ever laid since the alleged offender committed suicide after this incident.

The Board found the applicant qualified under Section 5 (a) and awarded $2,000.00 for pain and suffering 7 (1) (d).

FILE: 922-014524

At approximately 1:00 PM on August 4, 1984 the 17 year old student applicant met his life-long friend, the offender, at his friend's grandmother's where he had gone to invite the applicant to a picnic. Shortly thereafter they were at another friend's home and the applicant noticed a shotgun on the table. He was unaware that it was loaded and raised it simulating the movements of local hunters shooting geese. His friend told the applicant to put it down, which he immediately did, but then the young offender picked it up himself and shot the applicant in the neck.

The applicant, realizing that he had been shot, ran to the medical clinic from which he was transferred to hospital by air ambulance. There an irregular wound ten by five cm. and two cm. in depth was noted. There was also a ragged five cm. wound on the right lateral shoulder. These were both debrided, sutured and drained under general anesthesia. It was also noted that the patient had lost his voice, probably due to damage to the recurrent laryngeal nerve. X-rays revealed a large number of pellets overlying or lateral to a number of the vertebrae. There were also some tiny metallic particles indicating shattering of pellets against the spine. Gunshot particles and small metallic fragments were also to be seen over the right clavicle and in the areas around the clavicle. An August 27 x-ray of the chest and the cervical spine noted that some of the wounds overlying the right clavicle and the cervical spine had been removed.

The applicant was taken to Toronto for assessment by an otolaryngologist. Both vocal cords were slightly reddened and oedematous. A CT scan of October 4, 1984 found multiple radio-opaque pellets present in the region of the right pyriform sinus and the pre-epiglottic space as well as to both sides of the pyriform fossa and in the soft tissue to the right side of the pharynx. The specialist concluded that there was some effect on his voice but it was improving. At the hearing it was apparent that the timbre of his voice is considerably lower than the norm. Residual scarring remains on the right side of the neck and shoulder. The applicant suffers from ongoing fearfulness and is concerned about his ability to become a carpenter.

The Board drew his attention to Section 25 with respect to the applicant's need for ongoing chiropractic treatments. It also agreed to consider a claim for loss of wages upon receipt of the appropriate documentation.

The young offender was convicted of careless use of a firearm and was sentenced to one day concurrent.

The Board found the applicant qualified under Section 5 (a) and awarded $900.00 expenses 7 (1) (a); $10,000.00 pain & suffering 7 (1) (d) and $657.00 other pecuniary loss 7 (1) (f) for a total award of $11,557.00.

FILE: 922-017438

Hearing held in camera.

With the applicant's consent, this application was considered solely on the basis of the documentation filed.

The applicant is a 52 year old woman who was walking her dog about 5:30 PM on January 5, 1987. She was suddenly grabbed from behind and forced to the ground by the offender. He asked that she undress and then that she kiss him. When she refused he began to punch her about the head, pulled down her underwear, bit her in the genital area and spanked her hard on the buttocks. The victim called loudly for help. When a young man appeared the offender ran away.

Police were called to her home and they brought her to hospital. A checkup there confirmed her story. There were bite marks, bruises and scrapes in all the areas referred to.

The offender was identified and sentenced to 2 years less a day plus 3 years probation.

The Board found the applicant compensable under Section 5 (a) and awarded $5,000.00 pain & suffering 7 (1) (d).

FILE: 922-017857

Hearing held in camera.

The applicant, a 37 year old receptionist, was accosted by the offender, masked and armed with a gun, in the lobby of her apartment building on June 10, 1986. He dragged her through the lobby to the garage room where he assaulted her physically and sexually over the next half hour. She resisted his attempts to tie her up. He then banged her forehead on the floor and punched her in the left eye. When she told him she had neither a PIN number nor charge cards the offender became angry. He picked her up and threw her into a large wooden garbage bin and left. She crawled to the lobby where another tenant found her. The police were notified.

The applicant was taken to a hospital emergency room. She was complaining of pain in the head, lower back, right wrist and left shoulder. There was a large contusion and hematoma on her forehead, a bruise on her neck, a large abrasion on her left shoulder, bruises on both elbows, multiple contusions on her legs and tenderness in her back and right wrist. The applicant saw a doctor on June 13 who noted that counselling had been arranged.

By this time the applicant was sore all over and the entire left side of her face was bruised. When she saw her family doctor on June 24 she was complaining of headaches, dizziness and light-headedness. She was already seeing a psychotherapist for the emotional trauma. On October 28 she reported that she was feeling anxious, sleeping poorly and felt that she was not functioning adequately at work. On November 5 she reported to her family doctor that she was still seeing the psychotherapist, continuing to sleep poorly and experiencing nightmares. The applicant was still attending counselling sessions at the time of the Hearing. A report from her counsellor at the Sexual Assault Care Centre reported that she had difficulty eating, sleeping, concentrating on her work and was fearful of the dark and of being left alone in her apartment. Her social life had become non-existent, she had given up her volunteer work and was unable to sustain a sexual relationship. Because of financial constraints she had not been able to change apartment buildings.

The applicant testified at the Hearing that she has constant headaches on the left side of her head, has lessened vision in her left eye and is developing an ulcer. Her life has been drastically affected by the assault. The Board anticipated that she will continue to need therapy to help her get her life back to some semblance of normalcy.

The investigating officer testified at the Hearing that the offender, who was charged with assaults on four other women during two month period, was an educated individual with no feelings of remorse. Trained as a ballet dancer he was very strong and agile. Police were able to identify the offender from a tape of his voice with the assistance of the applicant and two other assaulted women.

The offender was charged with twenty-seven counts including aggravated sexual assault, robbery and unlawful confinement in six separate incidents. He pleaded guilty to robbery and aggravated assault and was sentenced to a total of eight years imprisonment.

The Board found that the application qualified under Section 5 (a) and awarded $213.00 expenses 7 (1) (a); $10,000.00 pain & suffering 7 (1) (d); $136.50 other pecuniary loss 7 (1) (f) a $400.00 legal fee and disbursements of $50.00 for a total award of $10,799.00.

FILE: 922-014744

Hearing held in camera.

The applicant was a 40 year old female living in a trailer park. On October 28, 1984 she had gone to a pizzeria across the way to get some pizza. She had two drinks while waiting for her order. Before she left the pizzeria she decided to go to the washroom but suffered an epileptic seizure on the way and fell unconscious to the floor hurting her head. An employee, assisted by a patron, the offender, assisted her. This patron offered to drive her back to her home directly across the way but instead of doing so, drove her off to a remote area. He parked his car in a farmer's field, removed the applicant, then beat and sexually assaulted her brutally. She was left lying naked and unconscious in the field for about eleven hours. When the applicant regained consciousness she picked up her clothes and walked for about three hours until she reached a farm house. Police were then called.

The applicant was taken for treatment to hospital by ambulance. Examination revealed a concussion and

multiple soft tissue injuries to her face, neck, back, arms, legs and buttocks. X-rays revealed no fractures. The rape kit was administered and the applicant kept in hospital three days for observation. She underwent a right lower lip scar revision operation in May, 1985. Some dental work was also needed which has been paid for through other agencies. The applicant later complained of deafness in the right ear. An audiogram revealed severe permanent hearing loss in that ear which is not amenable to surgical treatment.

The applicant was advised of the provisions of Section 25 with respect to a hearing aid for her right ear. The Board will consider payment of the hearing aid on submission of an account as per the estimate filed with the Board.

The offender was charged with aggravated sexual assault. At trial he pleaded guilty to sexual assault causing bodily harm and was sentenced to two years less a day plus two years probation and other conditions.

The Board found that the application qualified under Section 5 (a) and awarded $95.00 expenses 7 (1) (a); $9,000.00 pain & suffering 7 (1) (d); $74.00 other pecuniary loss 7 (1) (f) a legal fee of $450.00 and disbursements of $208.50 for a total award of $9,827.50.

FILE: 922-016621

Hearing held in camera.

The 34 year old female applicant was asleep in bed in her apartment on July 25,1986 when the offender jumped on her and she awoke to find him subduing her by pressing a pillow over he head. He then pulled something dark over her head and tied her wrists while he held a knife against her throat and sexually assaulted her for over an hour and a half. When he left, the applicant went to the superintendent's apartment for help.

The applicant was taken to hospital and the police were called. She underwent the procedure for rape victims. Hospital records note that she had red jagged marks on her neck, raised red areas on both wrists and a tender neck.

The applicant accompanied police to her apartment to assist them in their investigation. She then drove back with her sister to her home and stayed there for ten days in seclusion. She then flew back to her own city when a friend arranged for the rental of a new apartment. She was therefore temporarily responsible for the rent on two apartments. She returned to work September 9, 1986 and though she received short term disability payments she calculated a net income loss of $205.00.

The applicant described to the Board the severe emotional reactions to this violent assault. She was in terror that the offender would return to kill her since he knew her identity. She was unable to stay alone, fearful of all men, cried constantly and worried what the effects on her mother would be if she found out. Her boyfriend deserted her and she was only able to move into her new apartment in October after the apprehension of the offender. She has many security devices on her new apartment but even now is still afraid when she enters that someone is there. She needs to keep the lights on all night. She attended a counselling program arranged by a hospital and though she feels she would continue to benefit from further sessions has been unable to arrange it financially.

The offender was convicted of five counts of sexual assault and sentenced to twenty years.

The Board will pay for the costs of further counselling under Section 25.

The Board found the applicant qualified under Section 5 (a) and awarded $2,000.00 expenses 7 (1) (a) and $10,000.00 pain & suffering 7 (1) (d) for a total award of $12,000.00.

FILE: 922-016292

Hearing held in camera.

An extension of the limitation period was granted for this application.

The applicant was a 20 year old unemployed woman who had spent the evening of September 15, 1984 at the residence of a long-time friend where she met the offender for the first time. When the applicant desired to return home she was faced with a lengthy bus trip and considered taking a cab but was short of money. Though she briefly demurred when the offender offered her a ride on his motorcycle she finally accepted after being reassured by her friends. However, rather than taking her home he drove her to a secluded area then stripped and sexually assaulted her while threatening her with a knife. After the assault he further threatened her should she divulge what had occurred. However, the applicant sought assistance and the police were informed.

The applicant was taken to hospital where the rape kit procedure was utilized. Though the applicant reported that she had been struck in the face and that vaginal intercourse had occurred there were no visible marks.

However, evidence submitted to the Board documented the considerable personality changes which followed from the rape. The applicant appears to have withdrawn into herself and to have adopted a very passive attitude with the distinct lack of a sense of worth, sometimes described as the damaged goods syndrome. She has undergone a diagnostic assessment which has provided badly needed and extremely beneficial emotional support. The applicant attended the criminal proceedings and conducted herself, as the Board was informed, in an admirable fashion despite the embarrassment of the details and circumstances surrounding the assault.

The offender was sentenced to three years for sexual assault.

The Board found the application qualified under Section 5 (a) and awarded $10,000.00 pain & suffering 7 (1) (d) to be paid out to the applicant in 50 periodic monthly instalments of $200.00 each, the first payable on February 1, 1988. The Board also awarded the sum of $450.00 to the applicant's counsel for his able professional assistance and sensitive handling of the presentation of the application before the Board. The total award was $10,450.00. By a subsequent section 25 variation to this Order the solicitor was awarded legal costs of $291.75.

FILE: 922-013740

Hearing held in camera.

With the applicant's consent this application was considered solely on the basis of the documentation filed.

The applicant, then a 20 year old patient being treated for an eating disorder in a psychiatric hospital, went out for the evening of March 10, 1984 with four other persons. The offender ordered the other persons out of the room, slapped the applicant's face a number of times when she refused to undress, then undressed and raped her. When she got a chance she went to a neighbouring house and called the police.

The applicant was taken to hospital by the police. The rape procedure was followed. She was noted to be upset and crying. Her psychiatrist reports that she was in a state of mental shock for several weeks after the rape. She was depressed and unable to sleep. She is now distrustful of men.

Since the applicant was not employed at the time of the assault the Board did not have the records on which to base the $7,500.00 loss of income claimed by the applicant. If she can provide a statement from an employer to support her claim for loss of income the Board would consider this under Section 25.

The offender was sentenced to a year's imprisonment consecutive to a sentence he was already serving for another sexual assault.

The Board found that the application qualified under Section 5 (a) and awarded $7,500.00 pain & suffering 7 (1) (d).

FILE: 922-015507

Hearing held in camera.

The 18 year old applicant had attended a party at the home of some friends and was walking to her boyfriend's home about 2 AM on August 28, 1982. She passed by a group of three young men, who dragged her into a wooded area, choked, kicked and punched her in the face. Her jeans and underwear were forcibly removed but the offender, a cousin whom she recognized, was unable to carry through the rape because of the vigor of her struggles and resistance. The men then tied her arms to a tree and fled. The applicant freed herself, then flagged down a passing motorist who took her to the security station of a chemical corporation where she called police.

The applicant was taken to hospital. She was admitted with gross swelling to the right side of the face, swollen and bruised lips as well as an undisplaced fracture of the nose. Her upper front teeth were also damaged in the assault.

The offender was sentenced to a year on a charge of assault with intent to commit rape. The other 2 were never identified.

The Board informed the applicant that it will pay for the repair of her teeth as per the estimate filed at the hearing on receipt of a report from the dentist that the work has been done. By a subsequent variation to this Order the Board authorized the payment of the dental work done at a cost of $4,090.00 dental expenses 7 (1) (f). It declined to pay the $50.00 for a filling to tooth #23 but otherwise found the account in line with the estimate.

The Board found the applicant qualified under Section 5 (a) and awarded $7,500.00 pain and suffering 7 (1) (d); $55.00 other pecuniary loss 7 (1) (f); a $450.00 legal fee and disbursements of $313.75 for a total award of $8,318.75.

FILE: 922-016230

The applicant was a 20 year old university student who was looking after the family farm during a parental absence. About 9:30 PM on March 2, 1985 the offender,

a farmhand who had twice previously made sexual advances to the applicant which she had rejected, entered the house on a pretext, grabbed the applicant and began choking her. During the struggle he banged her head on a chair, she briefly lost consciousness and began bleeding from the nose and mouth. She managed to talk the offender out of a further assault in spite of his further threats. She fled the farm, sought refuge with a fellow student as well as medical and legal aid and reported the incident to the police.

The offender was given a suspended sentence plus one year probation on a charge of assault bodily harm.

The Board found the applicant compensable under Section 5 (a) and awarded her $60.91 expenses 7 (1) (a); $4,000.00 pain and suffering 7 (1) (d); $97.50 other pecuniary losses 7 (1) (f) and $36.00 disbursements for a total award of $4,194.41.

FILE: 922-016821

Hearing held in camera.

With the consent of the applicant, this application was considered solely on the documentary evidence submitted. An extension of the limitation period was granted for this application.

About 12:30 AM on September 19, 1984 the applicant, a 73 year old woman was awakened by a man kneeling beside her bed. At first he asked for money, then fondled and finally stripped and raped her. He then shut her in a closet and placed a sewing machine in front of the door. Several hours later she made her way to a neighbour's who called the police. She was taken to hospital where she was diagnosed as having been raped and manhandled. Her wrists were bruised from having been restrained.

The applicant is still unable to stay alone at night.

The offender was never found.

The Board found the applicant compensable under Section 5 (a) and awarded her $31.26 for expenses 7 (1) (a) and $7,500.00 pain & suffering 7 (1) (d) for a total award of $7,531.26.

FILE: 922-017741

Hearing held in camera.

The applicant, a 25 year old reconciliations clerk, was sexually assaulted by a man armed with a knife for about an hour and a half from approximately 2:30 AM on June 25, 1986. She received a small laceration to her right hand and some bruising to her right knee but much more serious was the significant emotional trauma she sustained.

The applicant received weekly counselling for nine months and now attends monthly. She was absent from work for approximately a month. She stayed with a number of friends and relatives for the first four months. Since she does not yet feel able to cope on her own she now shares an apartment with a roommate. She sleeps only four or five hours a night, has nightmares and will not go out alone at night. Despite her courageous efforts to overcome the aftermath of this occurrence, depression, anxieties and mood swings continue.

The Board advised the applicant that if she wished to undertake more specialized counselling she should submit a psychologist's or psychiatrist's assessment. The Board would cover the cost of the assessment and consider covering the cost of the therapy under Section 25. The Board agreed to cover her net income loss and make an allowance towards the costs of moving and relocation.

The offender was convicted of five counts of sexual assault (one of these being that against this applicant) and was sentenced to twenty years.

The Board found the applicant qualified under Section 5 (a) and awarded $700.00 expenses 7 (1) (a); $276.00 pecuniary loss-victim 7 (1) (b); $9,000.00 pain & suffering 7 (1) (d) and $85.75 other pecuniary loss 7 (1) (f) for a total award of $10,061.75.

FILE: 922-016369

Hearing held in camera.

The applicant was a 33 year old married member of the armed forces who had been out for the evening. Her husband was admitted to hospital because of a disagreement which broke out at the party. As she was walking home about 2:30 AM on June 7, 1986 she was forcibly abducted by 2 men in a pickup truck. She resisted violently and managed to get partially out of the truck. She was driven for about 11 blocks with her feet dragging on the ground. The offenders drove her out of town where she was raped by both men, subjected to cunnilingus by one offender and struck in the face by the other when she bit him, as he tried to force her to fellate him. While the 2 were absorbed in conversation she made good her escape, the police were called and she was taken to hospital.

The applicant was hospitalized for 5 days with bruising and swelling, as well as a hairline undisplaced fracture to the nose, abrasions to both elbows and both knees and a strained shoulder. Two teeth suffered damage requiring repair.

She also suffered severe emotional trauma. The offenders were tried separately and the applicant

collapsed and was admitted to hospital for 4 weeks at the time of the second trial suffering from an adjustment disorder with depression. The applicant has required a good deal of professional counselling. The injury to her feet has affected her career in the military.

The 2 offenders were each sentenced to 4 1/2 years for aggravated sexual assault. An investigation will be made into the possibility of recovery pursuant to Section 26 (2) of the Act.

The Board found the applicant qualified under Section 5 (a) and awarded $150.00 expenses 7 (1) (a); $271.50 pecuniary loss-victim 7 (1) (b); $12,000.00 pain and suffering 7 (1) (d); a $400.00 legal fee; $36.00 disbursements and a $671.40 payment to an OPP witness for a total award of $13,528.90.

FILE: 922-017045

Hearing held in camera.

The application was brought by a 23 year old clerk for a stockbroker with respect to occurrences on May 24 (file 922-017045) and June 29, 1986 (file: 922-017363) both involving the same offender. About 10:45 PM on the night of May 24th the applicant, who was waiting the arrival of her boyfriend, had left the fire exit door to the apartment open for ventilation. She heard footsteps and found herself confronted with an armed intruder whose face was disguised by a white ski tube. He demanded money. The applicant gave him her wallet and was forced to bend over the bathtub while he removed her bank card. He then asked her for her account number warning her that if it were wrong he would return. He took her back to the living room, bound her hand and foot and then gagged her. The applicant recognized his gun to be a fake when he lay it down beside her. The offender then fled via the fire escape, the applicant extricated herself and telephoned her parents who called police. She stayed with her parents for several weeks.

After installing a new set of locks the applicant returned to her apartment. She awoke at approximately 5:00 AM on June 29 to the sound of the offender walking down the hallway to her bedroom. She recognized the male of the earlier occurrence though his face was now disguised by a stocking mask. He entered her bedroom and grabbed her by the neck complaining that she had given him wrong numbers. When she attempted to resist he began choking her and then 'hogtied' her to her bed and blindfolded her. He again requested her wallet and bank identification number and she again provided him with false information.

The offender then demanded and the applicant was forced to acquiesce to a number of sexual acts including intercourse. He tied her up again and fled. She was able to remove her blindfold and by thrashing around made sufficient noise to alert a neighbour who called police.

The applicant attended hospital where the sexual assault kit was administered. They also noted the numerous abrasions and rope burns. She returned to her parents' home where she initially cried a lot and suffered from insomnia. She also attended a psychiatrist who reported that she experienced every possible symptom of the Rape Trauma Syndrome as a Post-Traumatic Stress Disorder and predicts long-term psychological consequences. The applicant also took part in eight weeks of group therapy.

Though the applicant told the Board she is almost back to normal she has been forced to live with the realities of her fear of being alone, refusing to go into the subway late at night, being more easily depressed, sleeping fitfully when alone and being more vulnerable. She is also concerned about the offender's eventual release from prison. The Board commended her self-possession and efforts to get on with her life.

The offender was charged with break enter and commit an indictable offence, robbery, unlawful confinement-forcible and disguise with intent for the first incident. He pleaded guilty to robbery. He was charged with break enter and commit an indictable offence, choking, robbery, aggravated sexual assault, unlawful confinement and disguise with intent for the second incident. He pleaded guilty to aggravated sexual assault. He received a total sentence of eight years on all charges.

The Board found the applicant qualified under Section 5 (a) and in an order covering both occurrences awarded $12,000.00 pain & suffering 7 (1) (d) and legal fees of $500.00 for a total award of $12,500.00.

FILE: 922-016048

With the applicant's consent, this application was considered soley on the basis of the documentation filed.

When the applicant returned home from work on November 27, 1985 she found her husband and her two children dead. The children, a girl aged eleven and a boy aged ten, had been given cyanide by their father apparently depressed over a cancer and the possibility of losing his children in a separation. He then committed suicide using the same means.

The Board found the children to be victims of crime under Section 5 (a) of the Act and ordered compensation for their funeral costs $1,977.09 7 (1) (a) but declined compensation for the father's funeral expenses since he was the offender. The total award was therefore $1,977.09.

FILE: 922-016122

The applicant, a 32 year old woman, who had returned home about midnight on April 14, 1986, awoke in the middle of the night to find the offender wearing a balaclava in her bedroom. He jumped on her back as she was lying prone in bed. This led to a protracted struggle throughout the house during which she recognized her assailant as a former boyfriend. During this struggle she was struck, bitten, jumped on and hit with a lamp.

When the offender left she called a friend, was taken to hospital and the police were notified. She was found to suffer from multiple abrasions and contusions as well as a laceration to the right suborbital and right parietal area. X-rays revealed a compression fracture of the body of T 11, T12 and L 1.

The offender was sentenced to a total of 4 years for disguise with intent, aggravated assault, unlawfully in a dwelling house and break and enter and committed aggravated assault.

The applicant was found compensable pursuant to Section 5 (a) and awarded expenses of $451.10 7 (1) (a); $836.00 pecuniary loss-victim 7 (1) (b); $4,000.00 pain and suffering 7 (1) (d) and $116.00 pecuniary loss 7 (1) (f) for a total award of $5,403.10.

FILE: 922-014117

This application was originally heard in Toronto on November 25, 1985 but a decision was reserved at that time pending receipt of further information. Since the applicant now lives in B.C. and was unable to attend the Hearing a video cassette of her sworn testimony in a B.C. hospital concerning the criminal charges against her ex-husband, the offender, was shown under an order of a judge of the Supreme Court of Ontario.

On November 4, 1984 the then 22 year old applicant was assaulted by her husband.

The applicant was admitted to hospital then transferred to hospital in a larger centre where a fracture dislocation of C3-4 with associated spinal cord injury was diagnosed. She was intubated and ventilated, underwent a tracheostomy and spinal fusion at the C 4 level. Her recovery was complicated by recurrent pneumonias, several urinary tract infections, and gastrointestinal problems including a peptic ulcer. On December 21, 1984 she was transferred to a hospital in Vancouver by military transport to be nearer to her parents.

A consultation report from the British Columbia hospital dated July 4, 1985 indicated that the applicant has no functional movement below the neck and is totally dependent on others for her care. She was realistically optimistic about her future and highly motivated though she continued to suffer intermittent neck and shoulder pains and spasms, suffered from anxiety and had difficulty in controlling her anger. Another report dated February 13, 1985 pointed out that she had sustained a high spinal column injury with associated spinal cord damage, had become quadriplegic and was partially respiratory dependent. It was felt unlikely that her condition would change significantly in the near future.

However, by March 25, 1987 the applicant's solicitor informed the Board that she was living in her own apartment, in receipt of welfare benefits from the B.C. government, a disability pension and covered 100% by their medical plan. He pointed out that periodic payments could be detrimental to his client but that a lump sum payment, in certain circumstances, would be beneficial to her.

The offender pleaded guilty to aggravated assault and was sentenced to 5 years imprisonment.

The Board found the applicant qualified under Section 5 (a) and awarded $25,000.00 pain and suffering 7 (1) (d), the maximum statutory lump sum payment. Under Section 22 it authorized payment of a legal fee of $700.00 and disbursements of $212.63 for a total award of $25,912.63.

FILE: 922-014566

The applicant, a 27 year old constable, had been summoned about 10:00 AM on September 1, 1984 to a local shopping centre to investigate an occurrence involving suspicious persons. When he joined a fellow constable (file: 922-014610) at the centre a gunfight erupted in which this other constable was critically injured. The applicant shot and killed one of the assailants but was himself shot in the face and upper leg.

The applicant was taken to hospital then transferred upon resuscitation to another hospital where gun shot wounds were noted in the mid-portion of the left thigh and in the area of the right mandible. X-rays revealed a comminuted fracture of the mid-shaft of the femur with multiple bullet fragments in the soft tissue of the thigh. He was placed in a balanced skeletal traction for the femoral fracture. By the end of five weeks this fracture area was so vastly improved that at the end of six weeks the applicant was placed in a synthetic hinged cast.

The bullet causing the facial injury had entered at the mid-line then passed backward and along the right side of the jaw until it lodged in the neck muscles of the right

side. It had caused a comminuted fracture of the mandible so an intermaxillary fixation was applied. This bullet had passed close to the posterior teeth. Recovery was satisfactory and a stable reduction of the fracture was noted. However, the post-operative course was prolonged because of the femur injury noted above. The embedded bullet migrated to the surface and was removed under local anesthesia on October 15, 1984 the day he was discharged for home care.

A medical report filed with the Board indicated that the applicant has recovered completely from the jaw injury though allowance should be made for possible damages which may manifest themselves only in the future. An examination on January 29, 1985 indicated that the femur fracture had healed so the cast brace was removed. The applicant was then encouraged to continue physiotherapy to develop and improve the range of motion of his knee and hip on the left side. There is some cosmetic defect at the site of the entry of the bullet wounds on his thigh and this defect will remain with him for life.

The applicant returned to light duties on March 11, 1985 and resumed full operational duties shortly hereafter. The Board was deeply impressed by the remarkable tenacity and persistence he exhibited in undertaking a stern regime of exercises to regain the strength and mobility of his limbs of which he had previously been most proud as an active athlete. The character and demeanor he presented before the Board reflected most favorably on himself and the force which he represented. While his rehabilitation appears complete the Board was mindful of the cautionary note running through the medical reports and drew to the attention of both the applicant and his counsel the provisions of Section 25 should there be future problems arising as a consequence of this unhappy occurrence.

One of the offenders was sentenced to life imprisonment on two counts of attempted murder. Another received 13 years for conspiracy to commit robbery, aggravated assault and use of a firearm. Two other offenders received eight and five years respectively for conspiracy to commit robbery.

The Board found that the application qualified under Section 5 (a) and awarded $18,000.00 pain & suffering 7 (1) (d); a $400.00 legal fee and $250.00 disbursements for a total award of $18,650.00.

FILE: 922-014921

Hearing held in camera.

The 38 year old female applicant, was the mother of a troubled son, the alleged young offender. Though he had been living peaceably with her for the two years previous to March 25, 1985 he assaulted her about 1:00 AM with a bar from a weightlifting set and then set the house afire. She was found by members of the fire department.

The applicant was first taken to hospital where a depressed fracture to the left temporal area and multiple fractures to the facial bones and jaw as well as a small pneumothorax and multiple lacerations were diagnosed. Concern was expressed about the laceration on the left side of her forehead in case she developed an extradural hemorrhage. She was transferred to the intensive care unit of a hospital in another city where the facial fractures were repaired. A medical report indicates that she was doing well neurologically by Arpil 2 when she was discharged from the hospital and that the soft tissue injuries in her arms and legs were also resolving.

However, after that discharge the applicant experienced periods of confusion and forgetfulness as well as pent-up emotions. The emotional trauma came to a head when she went to see her son in detention and he refused to see her. According to a medical report she became so depressed there was concern she could become suicidal, a fear confirmed when she was admitted to hospital on March 24, 1986 after a suicide attempt. The medical report indicated that she had been depressed and mentally upset for the previous year. She was then admitted to the specialized institution where she had been previously admitted between August 1 and September 21, 1974 and May 23 until June 19, 1985. When she was admitted in March, 1986 she walked with a limp, had a real defect in her right hand and was concerned about her speech. A medical report indicates however that she could speak quite well and that her situation was more a reactive depression than due to actual brain damage or attendant disturbance to her thinking. While there she underwent physiotherapy for the problems with the right hand and the left foot. In a February, 1987 report the medical director of the institution stated that the applicant was suffering a very definite emotional reaction to the trauma of the injury she had received and that the depression was 100% related to the stress and trauma of the injuries suffered at the time of the assault and house fire.

A neurologist who considered the applicant's complaints of residual numbness on the left side, fatigue and parasthesia involving the left hand and foot could not find any significant localizing neurological signs but surmised that she might have had a rotational brainstem injury as a result of her prolonged coma and this would account for the problems. On April 4, 1986 the applicant continued to complain of slurred speech, mild blurring of vision in the right eye and continuing parasthesia and numbness in her left foot. The

neurologist again considered these problems to be a result of her head injuries. A further ophthalmological diagnosis of optic neuritis raised the possibility of multiple sclerosis since the condition exists in 40% of MS cases. However an MRI scan in April, 1987, which showed an abnormality in the region of the brainstem, did not confirm a diagnosis of multiple sclerosis. The medical report urged caution against concluding the patient actually had MS. The neurologist concluded in his report that the applicant was severely neurologically impaired because of brain damage and that despite her impressive psychiatric history he did not feel that her problem was psychosomatic.

The applicant testified at the Hearing that after a length of time her hand becomes difficult to use which means that she is unable to work. Her right eye blurs on a daily basis.

The applicant's claim for wage loss will be dealt with by the Board under Section 25 upon receipt of the income tax records requested and the results of an enquiry with respect to CPP benefits which the applicant's lawyer will supply.

The young offender was found not guilty of attempted murder by reason of insanity and confined under warrant.

The Board found that the application qualified under Section 5 (a) and awarded $20,000.00 pain & suffering 7 (1) (d); a $400.00 legal fee and disbursements of $604.50 for a total award of $21,004.50.

FILE: 922-014741

An extension of the limitation period was granted for this application.

This application was brought by a housewife for nervous shock sustained as a consequence of the murder of her daughter on March 30, 1980.

The applicant was hospitalized in a psychiatric unit in June, 1980 with an acute depression. She left the hospital in October to visit relatives in England but upon her return in January, 1981 she had to be readmitted and remained there until February when she released herself though she continued regular visits to a psychiatrist until October, 1981. The doctor reported at that time that she was not completely well. Her new psychiatrist in a report dated February, 1987 speaks of continuing severe symptoms of depression which he has attempted to treat through electro-convulsive therapy and medication with results he considers less than satisfying.

The applicant is described as having had a nervous disposition prior to her daughter's murder. She had an earlier depressive illness, also treated with electro-convulsive therapy, in 1953 after the death of her first husband. In addition to the death of her daughter she has undergone a number of other unrelated emotional upheavals including a divorce and a subsequent marriage and the illness of her new husband which have all contributed to her continuing depression and illness.

The Board agreed to cover a 65 week net loss of income and made an allowance of $900.00 for one year toward the cost of the applicant's extensive medication.

The offender was convicted of murder and sentenced to life imprisonment with no parole for 10 years.

The Board found that the application qualified under Section 5 (a) and awarded $900.00 expenses 7 (1) (a); $6,705.00 pecuniary loss-victim 7 (1) (b); $10,000.00 pain & suffering 7 (1) (d); $59.00 other pecuniary loss 7 (1) (f); a $500.00 legal fee and disbursements of $139.00 for a total award of $18,303.00.

FILE: 922-014610

The application was brought by a wife on behalf of her husband, a 32 year old police constable, who was left a quadriplegic after having been shot in the upper neck while on duty on September 1, 1984. He also suffers from cortical blindness and has severe brain damage as a result of his injuries.

The victim was treated in hospital from September 1, 1984 until January 15, 1985 when he was transferred to the rehabilitation program in another hospital where he remained until May, 1985. He was then transferred for further intensive rehabilitation to a specialized American centre where he remained until August 1986 when he returned briefly to the Canadian rehabilitation centre, which he had previousy attended, before returning home the same month. These three years of intensive rehabilitation are fully documented in medical reports filed with this Board. Due in large part to his courage and efforts as well as the efforts of his wife, family, fellow officers and the medical community the victim has made remarkable progress in spite of the severity of his injuries.

The victim continues to live at home with his family and a permanent aide who assists with his care and the continuing rehabilitation. He attends the rehabilitation centre three days a week for physical and occupational therapy which is continued at home two days a week. He also participates in a swimming program one day a week. Progress in the program, which is attempting to

provide him with as normal and rich a life as possible, is complicated by his blindness and memory problems. The Board noted his wife's remarkable sensitivity in responding to his emotional needs and providing an environment which nourishes continuing progress.

The Board is satisfied that the victim has both received and will continue to receive adequate financing to compensate for the continuing loss of income and to provide the significant amount of physical equipment required for his care and rehabilitation. The Board therefore does not intend now or in the future to make payments in those areas. However, it considered that his injuries and continuing disabilities warranted a maximum award. Moreover, it considered that a maximum award on the basis of periodic payments would contribute in the most meaningful way to his and his family's efforts to attain a rich and fulfilling life. It therefore ordered an immediate payment of $12,500.00 and a montly payment of $1,000.00 commencing May 1, 1987. These monthly payments are to be continued during the life of the victim as long as he is being cared for at home or until the statutory limit of $250,000.00 is reached. The applicant, to whom the payments are to be made for the victim's benefit and use since she has power of attorney on his behalf, is under an obligation to report to the Board should the victim no longer be residing at home permanently.

One of the offenders was sentenced to life imprisonment on two counts of attempted murder. Another received 13 years for conspiracy to commit robbery, aggravated assault and use of a firearm. Two other offenders received eight and five years respectively for conspiracy to commit robbery.

The Board found that the application qualified under Section 5 (a) and awarded $12,500.00 pain & suffering 7 (1) (d) a $500.00 legal fee as well as disbursements of $651.00 for a total award of $13,651.00. In addition the Board ordered continuing monthly payments of $1,000.00 a month under the conditions outlined in the Order.

FILE: 922-017346

This 37 year old public transit employee was driving a streetcar about 3:00 AM on January 31, 1986 when the offender asked to pay his fare with a credit card. When his request was refused he hit the applicant to the left side of the face, grabbed him by the clothes, dragged him off the streetcar and kicked him in the head, chest, side and back. When he threatened to cut the applicant, the applicant sprayed him with a can of dog repellant spray. The applicant then phoned for assistance.

The applicant was treated in emergency for an abrasion to the left knee, tenderness to his chest and back and a human bite to the ring finger of the right hand. The applicant told the Board that he was particularly offended at being bitten. He recuperated at home for three weeks though he did not feel fully recovered until a month after that.

The applicant's solicitor advised the Board a statement of claim had been issued against the offender but that they had not been able to serve it. The applicant was advised of the Board's subrogated interest in the action.

The offender was sentenced to fifteen days in jail.

The Board found the applicant compensable under Section 5 (a) and awarded $2,500.00 pain and suffering 7 (1) (d); $78.00 other pecuniary loss 7 (1) (f) and disbursements of $45.00 for a total award of $2,623.00.

FILE: 922-017136

On September 30, 1986, the 45 year old applicant was twice assaulted by her husband, who was under the care of a psychiatrist. At 8:45 AM her husband chased her out of the house, pulled her hair and choked her. About 1:30 PM he punched her in her right eye causing bruising and swelling.

Out of fear of further angering her husband she did not seek medical attention till two days later when she attended the hospital. The injuries were diagnosed as soft tissue in nature.

On October 1 she reported the two assaults to police but did not lay charges because of her fear of retaliatory action. During the following four months she saw a number of specialists who report that the eye was significantly disfigured and that there was significant transient stiffness, pain or numbness of her face, neck, left shoulder and arms. Another report notes, "significant myofascial strain of the cervical spine". She commenced physiotherapy on a weekly basis. A psychiatrist reported that the applicant will not suffer any significant disability as a result of the injury.

No charges were laid against the alleged offender.

The Board found the applicant qualified under Section 5 (a) and awarded $6,000.00 pain and suffering 7 (1) (d) a $350.00 legal fee and $350.00 disbursements for a total award of $6,700.00.

FILE: 922-016406

The applicant, a 35 year old equipment operator, went to pick up his mail at the local post office on January 7, 1986. On his way home about 8:00 PM he was taking a short cut through a school yard when a man appeared

and struck him in the face knocking him to the ground. When he got up and grabbed his assailant he was again punched to the body. Another man armed with a baseball bat then appeared and struck his left leg three times. The applicant again fell to the ground. His assailants stole his wallet and fled the scene. The applicant crawled to a nearby house in great pain and asked for assistance. Police were called.

The applicant was taken to hospital by ambulance. An examination revealed a fractured left tibia and multiple lacerations to the left leg. He was given antibiotics and transferred to another hospital where the three gashes were sutured and a closed reduction on the tibia was performed. The applicant wore a hip cast, then an above-the-knee cast and finally a leg cast for a total of nine months in a cast. He was left with a thinner left calf and two bulges on his left leg due to muscular hernias as a result of the assault. X-rays taken on February 20, 1987 revealed that the tibia and fibula were both healing well. X-rays also revealed a lot of callus around the site. At the Hearing the applicant told the Board that he had an appointment in February, 1988 to remove callus from his patella. He has also been left with a permanent limp in his left leg.

The Board agreed to deal with the claim for loss of income under Section 25 after receipt of the appropriate documentation.

No charges were laid in this occurrence since the assailants were never apprehended.

The Board found that the application qualified under Section 5 (a) and awarded $8,000.00 pain & suffering 7 (1) (d) a legal fee of $500.00 and disbursements of $255.30 for a total award of $8,755.30.

Under a subsequent variation to this Order the Board awarded $254.38 expenses (prescriptions, ambulance, cast, cane and crutches) 7 (1) (a) and $3,566.87 loss of income 7 (1) (b) for a further award of $3,821.25.

FILE: 922-016411

The applicant, a 26 year old unemployed man was attending a party involving thirty or more people on a farm about 11:00 PM on May 10, 1986. The applicant became aware that the owner of the house, who was not the host, had become displeased with a guest and had returned to the house to get a gun. The applicant, becoming concerned, entered the house and attempted to dissuade the offender when he came down the stairs with the rifle. This led to a struggle for the possession of the gun. The applicant lost his grip on it and was pushed back by the offender who then raised the rifle, aimed it at the applicant's groin and fired.

A friend drove him to hospital and the police were informed. A laparotomy was performed and surgical procedures instituted to repair 2 holes in the bladder and to remove a section of the small intestine, while a hole in the rectum was left to self-heal. The applicant continues to suffer from eliminatory difficulties.

The offender pleaded guilty to criminal negligence causing bodily harm and was sentenced to 12 months. In addition, the rifle was ordered destroyed and the offender forbidden to own or possess a gun for 5 years.

The Board found the applicant compensable under Section 5 (a) and awarded $21.98 expenses 7 (1) (a); $3,500.00 pecuniary losses-victim 7 (1) (b); $7,500.00 pain & suffering 7 (1) (d); a $500.00 legal fee and $260.00 disbursements for a total award of $11,816.98.

FILE: 922-012120

The applicant was a thirty year old general maintenance labourer who was assaulted in a tavern on April 7, 1983. The applicant testified that he and a friend had had a couple of beers before they decided, shortly after 11:00 PM, to drop by a tavern to have something to eat. They were told rudely that the kitchen was closed. The applicant said that his friend had been upset and made an insulting remark to the waitress. Two other customers then came to their table. When the applicant asked them what the problem was they responded, "You're with him." The applicant stated that he responded, "I can leave," but was struck on the side of the face. He and his friend then left for home and it was only a week later when the swelling of his face subsided that he noticed that his face was asymetrical. He then consulted a doctor who sent him to the hospital for x-rays. He was admitted and operated on for a fractured left zygoma the same day. He stayed in hospital five days but it took the fracture about six weeks to heal.

The investigating police officer also testified at the hearing. He had interviewed two waitresses and the bartender who all stated that the applicant and his friend had been abusive to the waitress shouting and calling out rude remarks. Two other patrons, one in particular, had come to her rescue. The officer left a message at the tavern for the 'rescuer' to contact him which he did the next day. This man claimed that he had been playing darts in a side room and was drawn to the larger room by the commotion. He then saw the applicant and his friend shouting abuse at a waitress who was almost reduced to tears. He had approached the applicant and his friend telling them that their remarks about immigrants were inappropriate and then gave them five seconds to finish their beer and leave. When the applicant picked up his beer the offender feared that the applicant was going to throw it at him

and he had then hit the applicant in the face. The police officer told the Board that initially he had not intended to lay charges and did so only because after determining the extent of the applicant's injuries he felt that charges should be laid.

Faced with the contradictory evidence the Board accepted that of the waitresses, the bartender and the offender when it is at variance with that of the applicant. Though the Board is satisfied that the applicant's behaviour contributed to his injury it does not believe that it warranted the injury sustained.

The offender pleaded guilty to assault bodily harm and was fined $300.00 or thirty days.

The Board found the applicant a victim of the crime of violence as defined in Section 5 (a) but had regard to the provisions of Section 17 (1) with reference to behaviour which may have directly or indirectly contributed to an applicant's injury as it awarded compensation of $15.64 expenses 7 (1) (a); $210.00 pecuniary loss-victim 7 (1) (b); $600.00 pain & suffering 7 (1) (d); $35.00 other pecuniary loss 7 (1) (f) legal fees of $300.00 and disbursements of $240.00 as well as $53.00 to the police witness for a total award of $1,453.64.

FILE: 922-014357

The applicant is a 53 year old woman whose son was killed June 7, 1985. According to verified information provided to the Board the victim had been drinking heavily from 5:30 PM on the afternoon of the previous day until the early afternoon of June 7th, without sleeping. He then got into an argument with the offender and accepted his offer to go out to fight. The victim was stabbed twelve times, the fatal wound a blow to the heart. The applicant was advised of the provisions of Section 17 (1) of the Act referring to a victim's behaviour which may directly or indirectly contribute to their injury or death.

The applicant made a claim for lost income and described the financial aid and practical assistance around the house provided by her deceased son. She estimated the financial help was approximately $60.00 a week. The applicant however now receives Family Benefits of $201.00 per month to which she was not previously entitled.

After careful consideration of the oral and written evidence the Board found the applicant had failed to prove a loss of income and declined to make an award. Nevertheless, it ordered the payment under Section 22 of travel expenses of $59.00 each to the applicant and her solicitor and $92.00 to a witness for travel expenses and witness fee for a total payment of $210.00.

FILE: 922-013811

An extension of the limitation period was granted for this application.

The 18 year old applicant worked on a grounds crew. Earlier in the evening of October 7, 1982 he and his fiancee (File: 922-012711) had been socializing with his parents though according to his evidence they had not been drinking. The couple had decided about 9:00 PM to go for a ride. About 11:00 PM as they drove past a group the fiancee recognized a cousin among them. They turned the car to double back and as they neared the group the offender threw a beer bottle which smashed against the window and door of the car. The applicant continued driving until, his vision becoming obstructed because of the bleeding from his forehead, his car struck a concrete pillar at the entrance of a parking lot. He parked the car in the lot while he regained his composure.

The owner of a nearby arcade helped the applicant into his premises and cleaned the lacerations. Police then arrived and called the ambulance which transported him to the hospital. Five stitches each were required for lacerations to the forehead and the side of the nose. Another stitch was required for a laceration over the right eyebrow. These were removed by his family doctor a week later. The lacerations cleared up within three weeks leaving only some barely perceptible scarring. He still complains of recurring headaches.

The applicant continues to be concerned about reprisals from the offender. The police witness testified that the incident may have been related to the offender's response to some of the applicant's driving habits. An information for threatening was sworn by the applicant on October 25, 1983.

The offender pleaded guilty and was placed on a $500.00 Peace Bond without deposit for 12 months. The charge of assault bodily harm was subsequently withdrawn.

The Board found the applicant qualified under Section 5 (a) and awarded $20.00 expenses 7 (1) (a); $1,500.00 pain & suffering 7 (1) (d); $168.00 other pecuniary loss 7 (1) (f) and $50.00 to a police witness for a total award of $1,738.00.

FILE: 922-015966

The applicant was a 34 year old labourer who had previously provided shelter to the offender when he had been released from prison. About 7:30 PM on May 11, 1985 the applicant met the offender on the street where he was raising an uproar claiming that a lottery ticket of his, which had been stolen, had won a million dollars.

The applicant tried to reason with him then passed on to meet a friend and buy a pizza. Later in the evening while the applicant was having a coffee in a bar/coffee house someone reported to him that the offender was looking for him claiming that the applicant had stolen the lottery ticket. When he ventured into the street he met the offender who slapped his cheeks and tried to kick him. When the applicant blocked the kick the offender pulled out a knife and started swinging at him. In spite of the applicant's evasive moves he was eventually stabbed twice in the left side of his back. His cousin removed the knife and the offender unable to find it fled the scene. The applicant, not realizing the seriousness of the injuries, decided to walk home but the cousin called both police and an ambulance.

The applicant was taken to hospital. Both stab wounds were in the mid-axillary line, the first above the level of the nipple was explored, debrided and left open, the lower was at the level of the costal margin.

The patient was discharged in ten days time. He found he needed a great deal of rest and that he was unable to venture out even for a walk for ten days. Even at the date of the Hearing he continued to feel a "pins and needles" sensation about the wounds. He had been dependent on analgesics for pain relief. He testified it was three months before he began to feel much better. The applicant also suffered much emotional distress particularly because of the memory of his previous assistance to the offender.

The Board considered a claim for lost income. His doctor stated that though he had considered the applicant medically unfit to return to work from May 11 until September 1, 1985 the applicant had in fact returned to work two months after the occurrence and was able to do so only because of continuous high dosages of analgesics and his high work motivation.

The offender was convicted of aggravated assault and sentenced to five years imprisonment.

The Board found the application qualified under Section 5 (a) and awarded $4,568.00 7 (1) (b); $4,000.00 pain & suffering 7 (1) (d); $46.00 other pecuniary loss 7 (1) (f) a legal fee of $400.00 and disbursements of $57.85 for a total award of $9,071.85.

FILE: 922-010010

An extension of the limitation period was granted for this application. With the applicant's consent, this application was heard solely on the basis of the documentation filed.

On June 27, 1981 the applicant, a 36 year old male American artist, was residing in his summer home. He had been repairing his water intake pipe when some local residents came along and gave him a hand. After the job was completed he invited them in to share some beer with him before they left. Later that evening they returned, but when the applicant refused them entry they forced their way in. Two of them left when he asked them to leave but the other two remained and proceeded to punch and kick the applicant when he refused them more beer. They then robbed him of money and travellers cheques. The applicant who was apparently unconscious for some period of time finally made his way to a neighbour's. He was first taken to the police and then to hospital.

The applicant suffered bruises and swollen eyes. He was also tender over both cheekbones and in the left jaw area. There was also a bruised and swollen upper lip. Further medical documentation was not available.

The offenders were convicted of assault bodily harm; the first was sentenced to five months, the second to sixty days.

The Board found the applicant qualified under Section 5 (a) and awarded $168.00 expenses 7 (1) (a) and $1,000.00 pain & suffering 7 (1) (d) for a total award of $1,168.95.

FILE: 922-015954

With the applicant's consent, this application was considered solely on the basis of the documentation filed.

This application was originally scheduled for hearing but due to a variety of motor vehicle problems neither the applicant nor his solicitor were able to attend and the Hearing was cancelled.

The 45 year old male applicant was present in the first offender's apartment on November 1, 1985. The applicant, a tenant in the same building, is a known alcoholic who had been imbibing before going to the first offender's apartment. The three offenders had also already been drinking freely and the drinking continued for about two hours after the applicant joined the group. An argument broke out which led to the offenders demand that he give them money and the use of his vehicle. When he refused to agree to this demand he was punched and kicked repeatedly by all three until he lost consciousness. When the applicant came to, he discovered that they had removed his trousers, car keys and wallet. He then tried to break through a window and escape but was overpowered, again repeatedly beaten and deposited in his own apartment. The offenders took some personal articles and made off in his vehicle. A neighbour contacted police who soon recovered the vehicle and most of the articles.

One of the offenders gave police a statement completely exonerating the applicant from any responsibility for the assault.

The applicant was examined in hospital and held overnight for observation. His face, nose and chest had all suffered bruises, the face more so on the left. X-rays of the chest indicated a possible fracture of the 7th and 8th ribs with no pneumothorax. Two bleeding lacerations in the right wrist required a total of nine sutures. The left elbow had suffered an essentially undisplaced fracture which required a cast for three weeks. After removal of the cast on December 3 the applicant began physiotherapy in which he made such good progress that by January 4, 1986 there was only a 4 degree deficit in extension of the elbow and minimal pain when he used a shovel. No serious permanent disability was anticipated by a specialist consulted. His personal physician anticipated that the applicant would be left with permanent scarring and numbness of his lower right lip and numbness at the base of his right thumb.

The three offenders were found guilty of robbery and sentenced to two years less a day plus five years weapons prohibition, two years less a day plus three years weapons prohibition and eight months in jail respectively.

The Board found that the application qualified under Section 5 (a) and awarded $22.00 expenses 7 (1) (a); $2,000.00 pain & suffering 7 (1) (d) a $200.00 legal fee and disbursements of $205.00 for a total award of $2,427.00

FILE: 922-013618

The 58 year old female applicant was finding her way home on October 12, 1984 after having won the jackpot of about $1,100.00 at a bingo parlour. She had just got off a bus and was walking the last block home when she suddenly heard someone running on the other side of the street and then a man turn and run towards her. She clasped the purse containing the money close against her body. The man grabbed the purse but she held on tightly and they both fell down in the street. He got up and pulled her along the street until he had torn the purse free. The alleged offender then fled towards a waiting van down the street and sped off. She made her way home and called the police.

The police took her to hospital where she was diagnosed as having suffered a fracture of the anatomical or surgical neck and right shoulder. Displaced bone fragments were also noted. She was placed in a triangular sling and swath and asked to return the next morning to get a more formal Velcro applied. The sling was replaced with a collar and cuff on November 8 and she was given some gentle exercise to do. On November 22 it was arranged that she would take physiotherapy to increase mobilization of the right arm. The bone fragments were removed surgically in July, 1985 and more therapy was scheduled following the operation. At the time of the Hearing the applicant still had considerable discomfort and did not have full use of her right arm. She could no longer comb her hair, knit or do many of the things she had been used to doing.

The assailant was never identified so no charges have been laid.

The Board found the application qualified under Section 5 (a) and awarded $1,530.00 expenses 7 (1) (a); $4,000.00 pain & suffering 7 (1) (d); $161.00 other pecuniary loss 7 (1) (f) a legal fee of $350.00 and disbursements of $125.00 for a total award of $6,166.00.

FILE: 922-017459

Hearing held in camera.

The 27 year old applicant and his fiancee were asleep in bed about 4:00 AM on April 29, 1986 when they were awakened by the presence of a man in the room standing over the applicant holding a long knife to his throat. The offender threatened him with death if he did not do what he was told then held the knife to the fiancee's throat and, after cutting the electric cord from the waterbed, forced her to use it to tie him up. She was then forced to take the offender on a search of the apartment for drugs and objects to steal. He then raped her. Afterwards, he allowed her to go to the kitchen for a drink but, when she tried to escape, he punched her and threw her back on the floor of the living room where he again began to sexually abuse her. The applicant, who had previously forced off the blindfold and seen some of these events, had now managed to free himself. He grabbed a stick used to hold up the bedroom window and went after the offender who dashed into the bathroom and locked the door. By the time the applicant had forced the door the offender had got through the window and made his escape. The fiancee sought help from a neighbour who called police.

The fiancee was taken to hospital by ambulance while the applicant went to the police station. He was then taken to the hospital and later released. The applicant suffered greatly from post-traumatic stress. He availed himself of medical and psychiatric help and counselling. He began to drink heavily and had parted from his fiancee within two months of the occurrence. He has not seen her for some time. Though at the time of the Hearing he had not had a drink for ten months he must now avoid the bars where he used to spend time with

his friends. When his performance became too unreliable he was demoted and laid off at work. He still experiences nightmares about the occurrence.

The offender, who had gone missing from a half-way house, was convicted of sexual assault with a weapon, break and enter as well as other offenses and sentenced to ten years.

The Board found that the application qualified under Section 5 (a) and awarded $360.00 pecuniary loss-victim 7 (1) (b); $3,500.00 pain & suffering 7 (1) (d); $73.80 other pecuniary loss 7 (1) (f) a legal fee of $250.00 and disbursements of $151.60 for a total award of $4,335.40.

FILE: 200-9976

The applicant was a 29 year old man who was treated in hospital for injuries received on August 4, 1982.

Since the applicant was unable to attend the Hearing he was represented by his sister. The investigating police officer was also in attendance. According to a report prepared by the Board's investigator, which had been seen by the applicant, his sister and the police witness, police attended a pizza store at 2:08 AM on August 4, 1982 and found the applicant there in an inebriated condition. He was unco-operative with the police and gave them a false name and address. He gave the ambulance crew, who took him to hospital, a different name and address which also turned out to be false. When interviewed by police in the hospital his version of how he had come to be injured differed from that originally given. He was unable or unwilling to give them the full names of the people with whom he had passed the evening. When police tried to get in contact with him later they were unable to do so as they had no correct address or phone number. The applicant made no attempt to contact the police.

The applicant was treated in hospital for human bite wounds to his nose and left ear as well as multiple lacerations and contusions. He was discharged August 11, 1982.

Though the applicant's sister tried to explain his actions the fact remained that he had chosen to mislead the police with false names and addresses and not co-operated with them in their investigation. He had told the police at the pizza store he did not want an investigation.

The Board drew the provisions of Section 17 (2) to the attention of the applicant's sister. These empower the Board to refuse or order only reduced compensation if an applicant has refused reasonable co-operation or failed to report an offence promptly to a law enforcement agency.

After having regard to all circumstances including the nature of his injuries as well as his lack of co-operation with the police investigation the Board refused to make an award for compensation in this matter.

FILE: 922-015737

This 53 year old unemployed applicant was assaulted by the offender in his own apartment on February 5, 1986. The applicant and the offender had formerly shared an apartment for approximately three years. The offender, at the time of the occurrence, was out on bail on a charge of assaulting the applicant. One of the conditions of that bail was that he not associate with the applicant nor be present in his apartment. On February 8, 1986 the offender, who had been asked to leave the apartment three months before, again because of a previous assault, returned to pick up some of his belongings. He was there for a couple of hours socializing. The applicant testified at the preliminary hearing that he was aware of the bail restriction on the offender though before the Board hearing he testified that he was not aware of the restriction.

The offender returned to the applicant's apartment that evening and joined him and two neighbours in drinking. The applicant's next door neighbour returned to his own apartment about 2:00 AM. Shortly thereafter the offender got into a dispute with the applicant, jumped up and grabbed a hammer and attempted to hit him on the head. When the applicant put out his right leg to foil the blow to the head, the leg received the blow instead. The offender now broke a glass and tried to stab the applicant in the face but cut his leg instead. Finally the offender tried to punch him but was restrained by the other guests. The applicant claimed that he then crawled to his neighbour's door by himself but according to statements taken by the police it was approximately an hour before he did so.

The applicant was taken to hospital by ambulance. He was admitted for nine days with an open comminuted fracture of the right tibia, a gash over the right mid tibia, a bruised right side of the face and a swollen upper lip. The wound was treated and the leg put in an over-the-knee cast. The applicant wore the cast for five weeks and a walking cast for a further eight weeks.

The offender was sentenced to a year for assault with a weapon.

The Board found that on a balance of probabilities the applicant was aware that the offender had been ordered to stay away from both himself and his

apartment. He also knew that the offender was subject to unprovoked outbursts of violence and had attacked him on previous occasions.

While the Board found the applicant qualified under Section 5 (a) it also had regard for the provisions of Section 17 (1) which direct it to take into consideration any behaviour on the part of the victim that may directly or indirectly contribute to his injury and awarded $59.00 expenses 7 (1) (a); $1,000.00 pain and suffering 7 (1) (d) legal fees of $350.00 and disbursements of $205.18 for a total award of $1,614.18.

FILE: 922-017905

With the applicant's consent, this application was considered solely on the basis of the documentation filed.

The applicant was an OPP officer who was called at approximately 3:00 PM on October 9, 1986 to execute an arrest. The offender resisted and in the struggle which ensued both fell down a flight of stairs. The offender was subsequently apprehended.

The applicant attended the hospital out-patient clinic for treatment of his injured right hand. Upon examination it was revealed that he had sustained a twisted thumb. He was treated conservatively and advised to return for x-rays. These revealed a possible fracture and/or avulsions or dislocation. The swelling was very visible and the thumb tender. The applicant was advised to apply heat, rest and make use of painkillers. The patient reported to the Board that it took six months for the swelling and pain to subside.

The offender was sentenced to 30 days in jail plus two years probation on a charge of assault police.

The Board found that the application qualified under Section 5 (b) and awarded $700.00 pain & suffering 7 (1) (d).

FILE: 922-015636

The applicant a 28 year old male taxi driver picked up the offender in the evening of May 14, 1985. He recognized the offender because of a previous problem and unfortunately was overheard as he attempted to advise his dispatcher. The offender got upset and punched the applicant several times on the right cheek and to the face. The applicant managed to hold the offender in a headlock until the police arrived and the offender was placed under arrest.

The applicant suffered a black eye, bruising and the loss of a tooth through dental surgery as a consequence of the blows. He lost two shifts of work.

The applicant was in hospital on the offender's trial date therefore was unable to testify. The charge of assault was dismissed for lack of evidence.

The Board found the applicant qualified under Section 5 (a) and awarded $314.43 for expenses 7 (1) (a); $70 pecuniary loss-victim 7 (1) (b); $900.00 for pain and suffering 7 (1) (d) $300.00 for legal fees and $46.50 to a police witness for a total award of $1,630.93.

FILE: 922-016991

With the applicant's consent, this application was considered solely on the basis of the documentation submitted.

The applicant, a retired 62 year old male on a disability pension, was suddenly and without provocation punched in the chest and knocked to the pavement while out walking in his neighbourhood on October 12, 1986. His left hip struck the curb in the fall and though x-rays revealed no abnormality he has been left with recurrent pains and discomfort in that area which have been slow to resolve.

The offender was sentenced to 30 days for assault bodily harm.

The Board found the applicant compensable under Section 5 (a) and awarded $900.00 pain and suffering 7 (1) (d).

FILE: 922-016339

An extension of the limitation period was granted for this application.

The applicant was a 53 year old salesman working as a part-time taxi driver at about 11:45 PM on March 2, 1985 when he picked up the offender outside a hotel. There was little conversation as he drove the offender to a nearby residential area. When they arrived the applicant turned toward the offender and was struck from behind with a broken hockey stick. When he regained consciousness he made his way on his hands and knees to a nearby residence and persuaded the young resident to call police and an ambulance.

X-rays revealed two linear fractures in the right frontal parietal region. The admitting diagnosis in the hospital included concussion and significant head trauma. There were a total of six scalp lacerations requiring thirty-nine sutures. There was considerable swelling. Though his injuries healed well he continued to suffer from headaches and tenderness of the neck. The applicant also suffered from numbness in the right hand and later he began to experience leg cramps at night.

He has continued to see his family doctor and the neurologist on a regular basis. On March 15, 1985, he returned to work as a salesman out of determination and need despite the continuing pain.

The offender was found guilty of assault with intent to steal and sentenced to six months consecutive to another sentence on another charge.

The Board found the applicant qualified under Section 5 (a) and awarded $130.00 expenses 7 (1) (a); $789.85 pecuniary loss-victim 7 (1) (b) $100.00 other pecuniary loss 7 (1) (f) legal fees of $400.00 and disbursements of $706.35. At the time of the original hearing the Board was unable to make the award for pain & suffering since it was awaiting a further medical report. This determination it made in a variation to the original Order made by way of a documentary proceeding on January 15, 1988. It then awarded $7,500 pain & suffering 7 (1) (d) and authorized payment of a further disbursement of $280.00 for a total award of $9,806.20. At the time it issued this variation the Board drew the applicant's attention to the provisions of Section 25.

FILE: 922-016499

The applicant is a 38 year old building contractor who was attempting to complete a subcontract about 5:00 PM on October 12, 1985. The offender had dropped by to see the contractor but kept bothering the applicant, who was attempting to complete a troublesome job, with unwanted advice. Eventually, words were exchanged and the offender punched the applicant once in the face.

The applicant was taken to hospital with a broken left jaw which was repaired with interdental wiring and fixation. He has been left with a significant area of numbness on the left jaw, lower lip and chin, which will be permanent.

The offender was sentenced to a day and a $500.00 fine on a charge of assault.

The Board found the applicant compensable under Section 5 (a) and awarded $28.14 pecuniary loss-victim 7 (1) (b); $2,000.00 pain & suffering 7 (1) (d); a $350.00 legal fee and $56.00 disbursements for a total award of $2,434.14.

FILE: 922-012345

The applicant was a 21 year old woman employed in a military facility on July 15, 1983. At 1:30 AM she called her boyfriend to come and pick her up at the North Gate of the base. After waiting a few minutes she began to walk along the road expecting to meet him on the way. She placed a pair of nail scissors in her hand as a protection. A driver soon stopped and offered her a ride which she refused. He persisted but she again refused and he drove off while she continued on her way. She had been walking for about five more minutes when she heard someone running in the bushes. When she looked up she recognized the same man who now came towards her yelling "I am going to kill you" and punched her in the face. She dropped a gym bag she was carrying in the road as she fell to the ground. The man dragged her across the shoulder of the road into the wooded area. Though she struggled and caused him some injuries he continued to hit her in the face. When he heard the sound of a car he covered her mouth. The applicant's boyfriend saw her bag in the road, stopped the car and then went to investigate the sounds he heard coming from the bushes. The applicant managed to get away and she and her boyfriend drove to a submarine shop and phoned police.

Police took the applicant to hospital where an open reduction was carried out on a depressed fracture of the nasal bone with a dislocation of the septum. Two of her teeth were also injured. The post-operative course was complicated. Medical reports indicate the applicant suffered a very severe post traumatic stress syndrome after this assault. She developed a strong phobia against the base and especially towards returning to her job there. The applicant described the fear, anxiety and emotional trauma which persisted for approximately five months. She still has occasional nightmares.

Despite extensive investigations by the OPP and the military police no offender was apprehended.

The Board found that the application qualified under Section 5 (a) and awarded $30.00 expenses 7 (1) (a); $1,816.00 pecuniary loss-victim 7 (1) (b); $4,000.00 pain & suffering 7 (1) (d); $25.00 other pecuniary loss 7 (1) (f) for a total award of $5,871.00.

FILE: 922-015992

The applicant's son, aged fifteen at the time of the occurrence, July 9, 1985 had been swimming in a local park. He had been harassed by a group of boys making racial remarks which led to some of them being ejected from the pool and it then being closed. When the boy went to leave he was confronted by one of the boys swinging nanchuka sticks around his head. The victim then grabbed the plastic chain from his bicycle lock in order to protect himself. At this point the 56 year old offender came running across to demand that the victim stop bothering the youths. When the victim tried to tell him that he was the one being bothered the offender punched him in the throat and pushed him

back violently against the wall. Three independent witnesses who had observed the scene called police.

As a result of this assault the boy sustained serious injuries to his throat, both hinge joints of his jaw, consequent back pain and difficulties in swallowing and eating as well as mental depression. He was unable to swallow his own saliva let alone solid food. Though he had to visit his physician on a monthly basis for 19 months even then the difficulties were not completely resolved. Emotional trauma and depression persisted for two years. At the time of the hearing he had moved to a new school, made new friends, was doing well in his school work and feeling more self confident.

The offender was convicted of assault and fined $200.00 or seven days.

The Board found that this application qualified under Section 5 (a) and ordered that the sum of $5,000.00 be paid to the Accountant of the Supreme Court of Ontario under Section 36 (6) of the Trustee Act to the credit of the victim. It authorized the payment of legal fees of $300.00 and disbursements of $300.00 for a total award of $5,600.00.

FILE: 922-017412

The 73 year old applicant was driving to Good Friday services on March 28, 1986. The offender tried to pass him but was forced to remain behind. When the applicant stopped at a red light the offender rolled his car forward and bumped the applicant's car. The applicant got out of his car to check the damage and then went to speak to the offender. The offender got out and struck him on the left side of the head knocking him to the pavement. When the applicant got up the offender struck him again on the left side of the head knocking him to the pavement once more.

The applicant was taken to hospital where abrasions to the left jaw, facial bruising and swelling were noted. Skull and mandible x-rays proved normal so he was discharged with the head injury routine sheet. The applicant deteriorated progressivley over the following four weeks. On May 4th he started to become confused, walked unsteadily, had a decreasing level of consciousness and began to complain of headache. When a CAT scan taken at the hospital showed large subdural hematomas the applicant was immediately transferred to another hospital where bilateral burr holes were drilled and the chronic subdural hematomas drained. Drains were put in place and removed three days later.

According to the extensive medical reports the applicant was followed up with CAT scans for a period of six months. There were no neurological deficits. The applicant informed the Board at the Hearing that he has the occasional headache and still feels very nervous.

The offender was sentenced to 90 days plus three years probation for assault bodily harm.

The Board found that the application qualified under Section 5 (a) and awarded $4,500.00 pain & suffering 7 (1) (d).

FILE: 922-015931

Hearing held in camera.

The applicant having been duly notified of the hearing and having failed to appear the Board proceeded to hear the application in accordance with Section 7 of the Statutory Powers Procedure Act.

About 1:30 AM on March 27, 1986 the 31 year old female applicant was asleep in bed with her eleven year old daughter. She was babysitting a friend's children during her absence in hospital. The applicant awoke to see a man armed with a knife before her. He sexually assaulted the applicant and her daughter (file: 922-015932). Later, after striking the assailant over the head with her bedside radio, the applicant was able to make good her escape. Police were called from a neighbouring house where she had taken refuge.

The applicant was taken to hospital where the sexual assault kit was administered. Two abrasions on her upper right chest as well as several other small bruises were noted in medical reports. The applicant was tearful, emotionally shocked and angry after the assault.

The offender was sentenced to four years for sexual assault.

The Board found the applicant compensable under Section 5 (a) and awarded $4,000.00 for pain & suffering 7 (1) (d).

FILE: 922-017509

With the applicant's consent, this application was considered solely on the basis of the documentation filed.

The male applicant, the manager of a LCBO store, observed a customer attempting to leave the store with a bottle of liquor concealed in the arm of his jacket about 7:30 PM on July 18, 1986. After being challenged the offender left the liquor and attempted to leave, then punched the applicant on the left side of his face and nose. A struggle ensued and the manager was able to

pin him down. However, though the offender managed to free himself he was quickly apprehended by the police who had arrived on the scene.

X-rays were taken of the applicant at the hospital. A tiny fracture was observed involving the tip of the nasal bones. There was no significant displacement but an irregularity involving the right side suggested a second fracture without significant displacement of the cartilagenous structure. The facial swelling subsided in about two weeks though it took about five weeks for the tenderness in the fracture areas to clear up. During cold weather there is an ache in the nasal area.

The offender was sentenced to 45 days in jail for assault bodily harm consecutive to other convictions.

The Board found that the application qualified under Section 5 (a) and awarded $800.00 pain & suffering 7 (1) (d).

FILE: 922-017357

The applicant was a 34 year old unemployed man who was attending a social centre on the evening of September 25, 1986. While playing pool he was struck from behind by the alleged offender, who had a prior history of extreme violence. The applicant's wife saw the assault.

The applicant was taken to the hospital emergency department by ambulance and admitted on September 26. His fractured mandible was reduced under general anaesthetic. Two large scalp and facial lacerations were also noted. He was discharged on September 28 and seen by the surgeon on regular postoperative visits. The wires were removed in the operating room of another hospital on October 22.

On the evening of the occurrence the applicant had not wanted to lay charges but several days later he and his wife went and gave a statement to the police. Subsequently he had a change of heart and again wanted the charges withdrawn out of fear of retaliation. He testified at the trial but of course could not identify the assailant since he had been assaulted from behind. His wife simply indicated that she was not a hundred percent sure of the identity of the alleged offender. The investigating officer testified at the Hearing that the reluctance of the applicant's wife to give a certain identification out of fear of the alleged offender was consistent with his reputation. The Board found that on the basis of the evidence before it the applicant was an innocent victim and his wife's inability to identify the alleged offender should not be held against him in view of the alleged offender's reputation.

The applicant had an estimate from a dentist and the Board agreed to pay those expenses directly to the dentist upon presentation of the invoice. Since the applicant may be suffering further medical problems the Board drew to his attention the provisions of Section 25.

As previously indicated the offender was found not guilty of assault because of the failure to identify him.

The Board found that the application qualified under Section 5 (a) and awarded $31.00 expenses 7 (1) (a); $5,000.00 pain & suffering 7 (1) (d); $17.00 other pecuniary loss 7 (1) (f) and expenses of $81.50 to the police witness for a total award of $5,129.50.

FILE: 922-016536

With the consent of the applicant through his counsel, the Board heard the application on the basis of the documentation filed.

The 46 year old male applicant was employed as a building superintendent. He had been asked for information (which he had given) by a duly appointed officer of the Ministry of Community and Social Services which resulted in the offender's girlfriend being cut off from welfare assistance. The offender came up to the applicant in the hallway of the building where the applicant was superintendent on January 2, 1986, put his arm around him in friendly fashion, and proceeded to assault him with numerous punches to head, chest and arms. An independent witness telephoned the police.

The applicant attended a hospital where fractured nasal septal bones were diagnosed and treated with a closed reduction of the fracture and a plaster splint. There were also bruises on both sides of the nose and in the periorbital area as well.The applicant submitted in an affidavit that permanent nasal polyps have developed as a result but there was no confirmatory medical documentation.

The offender was convicted of assault, fined $350.00 and given 2 years probation.

The Board found the applicant compensable under Section 5 (a) and awarded $2,000.00 pain & suffering 7 (1) (d) a $300.00 legal fee and $235.00 disbursements for a total award of $2,535.00.

FILE: 922-013514

With the applicant's consent, this application was considered solely on the basis of the documentation filed.

The 23 year old male applicant and a friend were window shopping cars outside a dealership on June 2, 1984. When he heard an object strike the ground the applicant turned to ask the person why it had been thrown. He found himself facing three males and a female in their late teens or early twenties. He was knocked to the ground then his hair pulled back to present his face as a target and kicked repeatedly. His friend, who had also been attacked, was not around when he recovered after losing consciousness for a few seconds. While he searched for him he saw a police car, flagged it down and reported the occurrence.

The applicant went to the hospital at 4:00 AM, was treated for numerous facial injuries and discharged the same day. He saw his personal physician on June 5th. He then denied any loss of consciousness and complained mainly of pain and swelling especially about the left eye. There was much swelling and bruising about that eye as well as a large subconjunctival hemorrhage but his pupils were equal and reactive. There was no apparent dental injury but there was a undisplaced fracture of the floor of the left orbit, a blowout fracture. These facial injuries gradually resolved themselves, the fracture healing without complications, and no further complications were anticipated.

The police believed the applicant to be the victim of an unprovoked attack and expressed themselves favourably in regard to his attempt to prevent property damage. Though tentative identification was made of some of the assailants from police photos it was not considered definite enough to warrant arrests. Therefore no one has been apprehended in this occurrence.

The applicant's solicitor has apparently incurred disbursements, however in spite of requests dating back as far as January, 1985 no receipts have been provided. It is the Board's normal procedure to pay for disbursements only upon presentation of the receipts.

The Board found the applicant qualified under Section 5 (a) and awarded $1,700.00 pain & suffering 7 (1) (d) and $150.00 legal fees for a total award of $1,850.00.

FILE: 922-017112

The 59 year old applicant, the reeve of an Ontario township, was assaulted about 10:00 PM, July 18, 1986, while inspecting a number of trees which had been blown down in a windstorm. Since the regular work crew were not available the reeve had gone out with his chain saw to help clear the road. A taxi came by and discovering the road blocked, two passengers jumped out shouting and swinging at the applicant. One of them struck the applicant first, near the mouth and then, a second more severe blow to the left side of the head.

The applicant sustained a chipped tooth but the more severe injury was a perforated eardrum. He was initially treated conservatively but developed two separate infections, one in August, the second in October, which enlarged the perforation. In January 1987 a bone graft from his skull was used to repair the perforation. He continues to suffer from a slight loss of hearing in his left ear.

The offender was sentenced to a day in jail plus a $500.00 fine or 20 days on a charge of assault bodily harm.

The Board found the applicant compensable under Section 5 (a) and awarded $75.00 expenses 7 (1) (a); $3,000.00 pain and suffering 7 (1) (d); $46.00 other pecuniary loss 7 (1) (f) legal fees of $350.00 and disbursements of $261.00 for a total award of $3,732.60.

FILE: 922-017512

An extension of the limitation period was granted for this application. With the applicant's consent through her solicitor, this application was considered solely on the basis of the documentation filed.

The 64 year old applicant was the proprietor of a small clothing store. Between 5:50 and 6:00 PM on October 13, 1984 the offender, who had bought a cowboy hat from the applicant several days before, entered and found his way to the back of her store. When she approached him to ask him what he wanted he turned and began beating her about the head with his fists. She lost consciousness and next remembered sitting on the steps outside her store. A passing taxi driver saw her there and had his dispatcher call the police.

The applicant was taken to hospital by ambulance. Examination revealed multiple bruises, abrasions and lacerations to her face, lips, and neck and subconjunctival hemorrhages in both eyes. There were several large hematomas about the applicant's face, nose, jaw and right parietal region as well as extensive bruising about her neck, upper chest, palate, tongue and the area below her tongue. She also sustained bruising on the right buttock, left side of the back, mid-left scapula, right thigh and both elbows. There was gross bruising and swelling about the left foot and ankle. X-rays revealed a fracture of the left lateral malleolus. While in hospital she suffered from unsteadiness, dizziness and a degree of amnesia consistent with concussion. She left hospital on November 6. Though she chould walk without support by then her recovery was gradual. She sought treatment for post-traumatic stress syndrome.

The applicant submitted documentation in support of a claim for lost income because her store was closed for 23 days as a result of her injuries. The Board accepted the claim for a net loss of $575.00. It would appear that the applicant was wearing a bridge which was damaged during the assault. The applicant was advised, if she had incurred any expenses in repairing the bridge, to notify the Board which could then consider a claim under Section 25.

The offender was found guilty of aggravated assault and sentenced to eight years imprisonment.

The Board found the application qualified under Section 5 (a) and awarded $575.00 pecuniary loss-victim 7 (1) (b); $4,000.00 pain & suffering 7 (1) (d) a legal fee of $350.00 and disbursements of $80.00 for a total award of $5,005.00.

FILE: 922-012721

The applicant sought compensation on behalf of herself and her three children as a result of the death of her husband on March 24, 1984. After a February 5, 1986 Hearing held in camera so as not to prejudice the offender's appeal of his life sentence on a conviction for second degree murder the Board issued an interim award granting her $500.00 per month as of March 1, 1986. The appeal petition was dismissed on June 15, 1987. At the Hearing on September 4, 1987 the applicant's solicitor provided up-to-date financial information and undertook to provide documentation which is now on file.

Based on the applicant's income tax returns for 1980, 1981, 1982 and 1983 the Board derived an average gross income from which it allowed 15% for deductions and 20% for personal use thus coming to a net amount which had been available to the family. The Board then calculated the net assets of the estate after insurance and death benefits. It also took into consideration the CCP survivor and orphan benefits as well as the Board's interim payment order and calculated the net loss to the time of this award. The Board ordered that the continuing net loss of income $600.00 per month, be compensated by adjusting the monthly payment by $100.00 as of February 1, 1988.

The Board found the application qualified under Section 5 (a) and awarded $7,200.00 pecuniary loss-dependents 7 (1) (c) plus an increase of the monthly payments from $500.00 to $600.00 as of February 1, 1988. It also awarded legal fees of $500.00 and disbursements of $245.75 for a total award of $7,945.75.

FILE: 922-015707

With the consent of the applicant, this application was considered solely on the documentation filed.

The applicant, a 60 year old man, was stabbed in the hand during an attempted robbery on a city street on March 21, 1985. The offender was scared away by the appearance of a man accompanied by a large dog.

Police were notified and the applicant was taken by ambulance to the hospital. A doctor evacuated a hematoma and repaired a cut to the ulnar digital nerve and an adductor tendon. The applicant feels the decreased sensation on one side of the thumb is a permanent problem.

Since no one was able to identify the assailant no charges have been laid.

The Board found the applicant compensable according to Section 5 (a) and awarded $22.00 for expenses 7 (1) (a) and $1,800 00 for pain and suffering 7 (1) (d) for a total award of $1,822.00.

FILE: 922-014345

Hearing held in camera.

The application was brought forward by a mother on behalf of her son, born September 2, 1983, who was assaulted on December 30, 1884. He had been left in the care of a 15 year old male babysitter who later called the applicant to tell her that her son had been injured. She took the boy to hospital immediately.

The infant remained in hospital until February 22, 1985. His injuries have been documented in extensive reports. He had sustained brain damage probably from a whiplash type shaking injury. The infant was unconscious for ten days. As a consequence he now has limitations of vision and hearing, some speech difficulties as well as some paraplegia in the right arm and leg. There is probably intellectual impairment as well. Though the child has undergone extensive therapy the travel required for treatment is both expensive and disruptive to his routines. Though it would appear that his needs are being well met for the present the future is quite unknown. His special needs, particularly the trips for medical treatment, incur expenses for his family. The trips are particularly expensive since they involve travel, accommodation and meal expenses as well as the cost of babysitters for the children who remain at home.

The Board ordered an award for pain and suffering be deposited with the Accountant of the Supreme Court of Ontario to be held until the boy reaches eighteen.

However, upon application, that sum may be encroached upon earlier if needed for medical or therapeutic care which can not be covered from any other source. When he reaches the age of eighteen the money is to be deposited with the Public Trustee to be used for his benefit. At that time the Board would consider, again upon application, a variation to this Order under Section 25. The Board also ordered a payment of $10,000.00 to the applicant for her future expenses related to special care, travel to medical treatment and babysitting costs. If this money is wisely invested it should produce a return of about $800.00 per year which should substantially assist her with the expenses referred to which are currently costing her about that sum of money.

A young offender was found guilty and given a year's probation on a charge of assault.

The Board found that the application qualified under Section 5 (a) and awarded $10,520.00 expenses 7 (1) (a) and further ordered that the sum of $12,000.00 be deposited with the Accountant of the Supreme Court of Ontario under Section 36 (6) of the Trustee Act to be held to the credit of the victim until he reaches the age of eighteen and then deposited with the Public Trustee for a total award of $22,520.00.

FILE: 922-016154

At the time of the occurrence the applicant was a 19 year old reformatory inmate. About midnight on April 6, 1986 he was approached by two males who asked him to beat up an inmate in another dormitory. He indicated that he had no such intention. They then punched him to the head and face. He did not fight back. When he got up for work he reported the incident to the authorities.

He had sustained an undisplaced fracture of the mid-portion of the nasal bridge with deviation of the nasal septum. He later underwent a septoplasty, cryosurgery and outfracture of his turbinates.

At trial the charges were withdrawn but the offenders were each placed on a peace bond of $200.00 for six months.

The Board found the applicant qualified under Section 5 (a) and awarded him $1,500.00 pain and suffering 7 (1) (d).

FILE: 922-014170

The sixty year old female applicant had just seen her visiting daughter to the streetcar about 10:20 PM May 5, 1985. As she was returning home she was suddenly jumped and pushed from behind by a male who snatched her shopping bag containing her purse. She fell to the ground, hurting herself. The assailant ran off. The applicant picked herself up, returned home and called the police. The purse was later found in a neighbour's backyard.

The applicant saw her family doctor four days later and was treated for a severely strained third finger of her left hand and an abrasion on her left knee. The finger was still swollen two months later and there was still some restriction to its full straightening. The applicant has become more aware of others as well as afraid of going out alone.

No charges have been laid in this incident though the applicant was able to give a rough description of the assailant.

The Board found the application compensable under Section 5 (a) and awarded $2,000.00 pain & suffering 7 (1) (d).

FILE: 922-016891

With the applicant's consent, this application was considered solely on the basis of the documentation filed.

The applicant was a 53 year old female waitress, who was assaulted in a restaurant on August 28, 1986 by a customer, who refused to leave. The female assailant pulled two wads of hair from the applicant's scalp leaving two small bald spots apporximately 1-1/2" to 2" in diameter. Though the applicant claimed psychological upset the doctor reported she did not need treatment.

The offender was sentenced to 14 days in jail for assault.

The Board found the applicant qualified under Section 5 (a) and awarded $400.00 for pain and suffering 7 (1) (d).

FILE: 922-017150

During the evening of March 17, 1986 the applicant, a 23 year old male electrician who was attending a gym, became involved in a dispute with another client about the condition in which he, the offender, had left some of the equipment. The offender then became quite angry and struck the applicant with an eight pound bar knocking him to the floor.

A friend took the applicant to the hospital for treatment. The police were called by the hospital. A laceration on the forehead required sutures. The applicant was also

sent for x-rays. He suffered from headaches for several months afterwards.

The applicant was off work from March 17 to 25 and worked part-time until the 27th. He quit his job the following June.

The offender was sentenced to six days in jail as well as a $500.00 fine on a charge of assault with a weapon.

The Board found that the application qualified under Section 5 (a) and awarded $900.00 pecuniary loss-victim 7 (1) (b); $2,000.00 pain & suffering 7 (1) (d); $150.00 other pecuniary loss 7 (1) (f) a $350.00 legal fee and $265.00 disbursements for a total award of $3,665.00.

FILE: 922-014666

This matter was originally set for a hearing on March 26, 1987. Given the facts then available to the Board, it offered both parties an adjournment to enable them better to respond to the variety of issues raised. All parties indicated a desire to proceed and the alleged offender exercised from time to time his right to question the two witnesses at length. However, after the hearing had been in session for some time, the alleged offender raised serious objections to the applicant's testimony and stated, that on reflection, he could provide two other witnesses to provide testimony substantially at variance with his testimony. The Board exercised its discretion, given the fact that the alleged offender was not represented by counsel, and agreed to an adjourned hearing. The applicant, through his counsel, objected. On June 4, 1987, the date of the adjourned hearing, the applicant appeared with a new witness but the alleged offender neither attended nor produced additional witnesses.

Since there was wide variance in the opposing evidence at the original hearing the Board finds that the events which took place in the parking lot of a take out restaurant on May 26, 1985 were as follows: the 39 year old unemployed applicant pulled up into the restaurant parking lot with some friends and went to an adjacent telephone booth to place a call. As he did so the alleged offender, who was well known to the applicant, approached and words were exchanged. The alleged offender produced a knife and threatened the applicant, who then ran from the booth pursued by the alleged offender. Bricks were thrown during this pursuit, one of which struck the applicant on the right shoulder. Police were called and the parties were interrogated.

The applicant subsequently made his way to hospital. There he was diagnosed as having suffered a right trapezius sprain. The applicant testified that the shoulder remained extremely sore for three months. Reports document the applicant's feelings of anxiety, tension and slight depression and note the strong emotional component to his physical symptoms. The doctor also relates this injury to a work injury which had taken place four to six years previous.

The alleged offender was charged with assault, weapons dangerous to the public peace and threatening but all three charges were withdrawn in court when the alleged offender entered into a bond to keep the peace.

The applicant submitted documents in support of a claim for net loss of income but taking into consideration all the documentation and the applicant's state of unemployment, the Board denied that aspect of the claim.

The Board found the applicant qualified under Section 5 (a) and awarded $4,000.00 for pain and suffering 7 (1) (d); $350.00 other pecuniary loss 7 (1) (f); $225.00 for a medical report and fees for two witnesses at $25.00 each for a total award of $4,625.00.

FILE: 922-015043

On August 23, 1985 the applicant's 14 year old son was attacked in a mall by the offender in an apparent case of mistaken identity. The offender's home had been broken into the week previous and his son had been given the names of two suspects. When the father and son went to the plaza the son pointed out two youths in the group present as suspects in the break-in. One of these youths, the applicant's son, tried to leave and was assaulted by the offender who grabbed him by the throat and pulled him by the hair. The police were informed of the assault. The other youth and another, later identified, were charged with the break-in and gave the investigating police officer statements admitting their involvement. These statements did not mention the victim as a participant.

The victim was taken to hospital. When he arrived at 9:35 PM the hospital noted that he had scratches on his arm, wrist, back and neck as well as abrasions on his hands and a cut on his head. Because his head had struck a wall an x-ray was taken but proved normal. A diagnosis of a mild head injury and superficial abrasions and contusions was made. After his wounds were cleansed the victim was given a tetanus booster and informed of the head injury routine then discharged into his parents care. When his doctor saw the boy again on September 16 there were no longer any complaints related to the injuries received nor any physical abnormalities to be observed.

Though the victim's physical injuries cleared up in ten days he was emotionally upset by the occurrence and

suffered nightmares for a short period afterwards. His mother states he became more reclusive after the occurrence and gave up many of his social contacts. The victim agreed but gave no particular explanation.

The offender pleaded guilty to assault, level 1 and was fined $200.00 or 8 days in jail.

The Board found that the application qualified under Section 5 (a) and awarded $20.00 other pecuniary loss 7 (1) (f) and ordered that the sum of $800.00 be deposited with the Accountant of the Supreme Court of Ontario under Section 36 (6) of the Trustee Act to be held to the credit of the victim until he reaches the age of 18. The Board also awarded a legal fee of $350.00 and disbursements of $121.00 for a total award of $1,291.00.

FILE: 200-9787

On July 12, 1981 the 23 year old applicant was returning home after attending a picnic with his wife. They met a traffic slowdown and the applicant's wife, who was driving, pulled ahead to pass a slow moving vehicle. As they passed the applicant gave the finger to the occupants of that car, which drove up alongside the applicant's car at the next red light. The two occupants of the car got out and approached his car. He got out of his car and words were exchanged. The applicant received a severe blow to the chin and collapsed losing consciousness. Police and ambulance were called.

The applicant was taken to hospital where it was noted that he had sustained abrasions to the left forehead, a bruised left thumb and a Y-shaped laceration on the right side of his chin. The forehead was cleansed, and a tensor bandage was applied to his hand. Twenty sutures were required to close the laceration. In November, 1981 scar revision was undertaken, which though it has minimized the scar, has left the applicant with permanent cosmetic scarring which he has learned to live with.

The Board noted its concern that the alleged offenders had not been found guilty. However, on consideration of the evidence as a whole, and in particular the testimony of the investigating officer, the Board resolved whatever doubts it may have had in favour of the applicant. He advised the Board that a judgement was obtained in 1983 against the two offenders in the amount of $3,589.25 plus pre-judgement interest but that no payment was ever received.

Though the two offenders were charged with assault bodily harm the charges were dismissed in court.

The Board found that the application qualified under Section 5 (a) and awarded $20.00 expenses 7 (1) (a); $1,500.00 pain & suffering 7 (1) (d); a legal fee of $250.00 and disbursements of $180.00 for a total award of $1,950.00.

FILE: 922-016629

The applicant, a 19 year old student, was walking home with two friends on January 18, 1986. A man and woman were walking on the other side of the street in the opposite direction. The woman called over to them asking if they wanted to fight. Her companion immediately crossed the street and punched the applicant in the face. He was momentarily stunned but soon saw his assailant fighting his friend on the ground. When the applicant attempted to pull the assailant off his friend and to hold him he was himself stabbed. Since he was bleeding profusely and so near his home he ran there and called the police.

Police drove the applicant to the hospital for treatment. Examination revealed a large stab wound to the lower left flank so the applicant was admitted immediately and sent on to surgery where the wound was explored and sutured. Fortunately the stab had missed all vital organs. The patient was discharged on December 20, 1986 and the sutures were removed on January 27, 1987. The wound healed well though the applicant remains concerned about the cosmetic aspect of the large remaining scar.

The applicant fell behind in his course to become a welding engineer technician as a result of this assault and eventually quit school. The Board agreed to compensate him for the lost tuition and expenses.

The offender was well known to the police and was sentenced to three years incarceration for assault with a dangerous weapon consecutive to a seven year sentence for an unrelated charge of wounding.

The Board found the application qualified under Section 5 (a) and awarded $1,063.00 expenses 7 (1) (a); $2,000.00 pain & suffering 7 (1) (d); $43.05 other pecuniary loss 7 (1) (f) and disbursements of $166.00 to the applicant's solicitor who waived a legal fee for a total award of $3,272.05.

FILE: 922-015969

At approximately 1:30 AM on May 1, 1986 the applicant, then a nineteen year old university student, left a campus pub to drive home with two of her girlfriends. A male acquaintance asked them to give him a lift. The offender, who was drunk, tried to precipitate a hostile response and when friction mounted struck two of the women in the group. The applicant went to the aid of one of the women and was struck with a punch to the

left of her jaw. The blow knocked her to the ground and she lost consciousness temporarily. The offender fled the scene and the women drove back to the university residence where a friend notified the police.

The applicant attended the emergency department at the hospital. She was diagnosed as having a possible jaw fracture, prescribed analgesics, advised to apply cold compresses and discharged. She returned the next day and x-rays confirmed a minimally displaced fractured mandible. The applicant returned home to decide whether to follow through with surgery there or to go on to a larger city. She returned to the hospital where her teeth were placed in occlusion and the jaw was immobilized. Subsequent consultations with the dentist in another province who removed the intermaxillary wiring revealed that the fracture had actually been bilateral and that there was a depression in the area of the left cheek-bone. Further x-rays revealed a recently healed depressed fracture of the left zygomatic arch. This dentist concluded that these fractures had likely occurred simultaneously. It was also his view that the depression was likely to be permanent.

The applicant testified that she did not begin to feel better until mid-October. Physiotherapy has been recommended for her jaw but she has been much too busy to pursue it. She suffered from nightmares, anger and a sense of helplessness. She sought counselling and, though at first the counsellor felt that her emotional stability and academic progress were at risk, she has progressed well in the course of the counselling.

The applicant had claimed for lost income, but since she was unemployed at the time of the occurrence and unable to provide supporting documentation, this aspect of the claim was denied.

The offender was found guilty on two counts of assault causing bodily harm and sentenced to 30 days on each charge, concurrent as well as a year's probation and a five years weapon's prohibition.

The Board found the application qualified under Section 5 (a) and awarded $268.85 expenses 7 (1) (a); $4,500.00 pain & suffering 7 (1) (d) and $130.30 other pecuniary loss 7 (1) (f) for a total award of $4,899.15.

FILE: 922-012349

This application was heard at a Hearing on September 8, 1987 but a decision was reserved pending receipt of a medical report now at hand.

About noon on May 26, 1983 the 54 year old female applicant was making use of a public washroom when an arm reached under the cubicle to grab her purse. As she fell forward the purse was loosened and disappeared with the offender. The applicant gave chase along a hallway and down three flights of stairs. She was able to grab the offender by the hair and reach for her purse but when he threw her off balance she fell and injured her left shoulder.

Medical reports filed with the Board refer to bruising and swelling of the left wrist, bruised and sore ribs and soreness in the left elbow, shoulder and on the left side of the head. She was later admitted to hospital for eight days cortisone treatment and physiotherapy. This was followed by nine months of physiotherapy three times a week. The patient still suffers from restricted mobility of the left shoulder. Three years after the occurrence the applicant developed a frozen right shoulder which was treated by a specialist until June, 1987. The treatment reduced the pain though there is still some restriction of movement in the shoulder and continued physiotherapy is called for. The cause of the frozen shoulder is unknown. The specialist speculated on the possibility that it was caused by compensatory overuse due to the injury to the left shoulder. In the absence of satisfactory evidence linking the October, 1986 shoulder problem to the injury in May, 1983 the Board was unable to find a link between the two.

Despite police investigation no offender was apprehended.

The Board found the applicant qualified under Section 5 (a) and awarded $137.50 expenses 7 (1) (a); $3,500.00 pain & suffering 7 (1) (d); $150.50 other pecuniary loss 7 (1) (f) $400.00 legal fees and $500.00 disbursements for a total award of $4,688.00.

FILE: 922-016556

On March 12, 1986 the 25 year old male applicant was an autobody worker who had subcontracted a job for the offender with the understanding that this money would be forthcoming when the applicant was paid by the client. The applicant phoned the offender and told him that he had received a cheque but could not cash it till the next day. The offender demanded immediate payment and turned up at the applicant's house at 9:45 PM armed with both a gun and a knife. The offender pushed his way into the house and pointed the gun at the applicant. When the applicant raised his arm to turn him away the offender slashed his wrist with the hunting knife. The applicant's father came to see what was going on and called police.

The applicant was driven to the hospital where the curved laceration across the distal forearm and wrist to the palm of the right hand was repaired with two layers of sutures. A pressure bandage was applied. Though no permanent consequences were contemplated the

applicant testified that he continues to experience pain and has some limitation of wrist strength. The applicant complained of stress and this was confirmed in a psychiatric report. Since the Board was not unmindful of future problems arising, as foreseen in the report, it drew the attention of the applicant and his solicitor to the provisions of Section 25.

The offender was sentenced to 90 days for aggravated assault, 90 days concurrent for offensive weapons, eighteen months probation and a five year weapons prohibition.

The Board found the applicant qualified under Section 5 (a) and awarded $4,000.00 pain & suffering 7 (1) (d) legal fees of $450.00 and disbursements of $319.55 for a total award of $4,769.55.

FILE: 922-014295

The applicant was the son of a seventy year old retired man working as a security guard on a contruction site who was brutally murdered at work on April 15, 1985 by two men attempting to steal a generator.

The claim before the Board was for funeral expenses and continuing monthly payments to the applicant as a dependant of the deceased. The Board heard extensive evidence and was provided with legal submissions to establish that the applicant was a dependant under the Act. The victim had provided $5,000.00 as a down payment on the house and had provided cash, groceries and gifts. The Board recognized that the victim's financial contribution had provided a welcome and appreciated improvement to the applicant's style of living but was unable to find him a dependant under the Act. The Board pointed out some of the financial benefits to the applicant following on the death of the victim.

The Board nevertheless found that the application qualified under Section 5 (a) and ordered payment of funeral expenses in the amount of the difference between the Board's maximum and the sum paid to the applicant by the WCB, $1,200.00 7 (1) (a) as well as a legal fee of $450.00 for a total compensation award of $1,650.00.

FILE: 922-016619

The applicant was a 37 year old unemployed deaf mute living in a rooming house where she was sharing facilities with five other persons one of whom, the offender, was a prior acquaintance. On a couple of occasions in the past they had shared accommodations but this was a matter of convenience and not reflective of a common-law relationship. On January 4, 1986 the offender, who had been living in his own room for nine months, asked to move in with the applicant. She refused. An altercation ensued leading to a physical confrontation and injuries. The applicant was treated in hospital and discharged. She then bought and installed new locks on her door and spent the evening watching TV. About 4:00 AM the offender broke down the door, proceeded to beat her up and finally hit her over the head with a wine bottle. He then called an ambulance.

The applicant was taken to a hospital emergency department where widespread bruises and lacerations about the face and head were noted. The police noted a six inch laceration on her head. X-rays revealed a comminuted fracture involving the zygomtic arch on the left side. There was also a large hematoma on the left side of the scalp. The applicant was in hospital until January 14, 1986.

The applicant testified before the Board through an interpreter that it took a month for the swelling and bruises to subside. She suffered from headaches for a year. Both the applicant and a police officer testified to such extensive swelling about the eyes that they were swollen shut. This was also apparent in a police photo taken the day after the occurrence. Since the applicant is a deaf mute relying heavily upon her eyes and sign language she was left for the period immediately following the occurrence without an effective means of communication.

The offender pleaded guilty to assault under Section 245.1 (1) (b) of the Criminal Code (Canada) and was sentenced to four months with two years probation on condition that he have no contact with the applicant.

The Board found the application compensable under Section 5 (a) and awarded $5,000.00 pain & suffering 7 (1) (d) and $52.00 to a translator for the deaf for a total award of $5,052.00.

FILE: 922-015541

The applicant was a 17 year old high school student playing basketball in the school gym on December 12, 1985, a "fun day", when the regular gym attire was not required. About 2:30 PM the offender, who was not a student in the school but had been given permission by a teacher to supervise the game, told the applicant to leave because he was improperly attired. The offender shoved the applicant about the gym until a teacher intervened but then followed the applicant down to his locker throwing him against the lockers and punching him to the left side of his face and kicking him in the stomach until several teachers intervened.

The applicant's family doctor noted a swollen and

tender bridge of his nose and a small cut on the right nostril but x-rays revealed 2 small fractures one in the lip of the nasal bone the other in the anterior nasal spine.

The applicant laid a private information against the offender who received a conditional discharge and a year's probation.

The Board found the applicant compensable under Section 5 (a) and awarded $400.00 for pecuniary loss-victim 7 (1) (b) and $1,000.00 pain and suffering for a total award of $1,400.00.

FILE: 922-015384

The applicant, a 47 year old self-employed costume jewelry salesman, was driving home about 9:00 PM on November 26, 1985. As he was about to turn a corner a man suddenly ran into his car and fell to the ground. The applicant, afraid that he had injured a pedestrian, got out to investigate. As he looked at the man lying on the ground the applicant realized that he was masked. Suddenly a second man jumped out from shelter and struck the applicant on the head twice with a piece of steel. He then kicked the applicant in the groin twice before the accomplices fled in the applicant's car.

The applicant suffered a minor contusion to the head. The groin injury has been more troublesome. Though this injury was painful, tests showed both testicles to be normal save for the presence of a hematocele. However, two hydroceles formed later. The urologist advised that they be removed surgically. An aspiration provided temporary relief but the applicant's fear of surgery has led him to choose to continue with the present level of discomfort.

The applicant claimed a loss of income but the income tax returns submitted to the Board showed that the income received in the year following the injury was higher than in previous years. There was therefore no award for loss of income.

Despite police investigation no offenders have been apprehended in this occurrence.

The Board found that the application qualified under Section 5 (a) and awarded $238.89 expenses 7 (1) (a); $6,500.00 pain & suffering 7 (1) (d); $50.00 other pecuniary loss 7 (1) (f) as well as a legal fee of $500.00 and disbursements of $244.00 for a total award of $7,532.89.

FILE: 922-017271

An extension of the limitation period was granted for this application.

The applicant, an 18 year old student, was assaulted with a baseball bat while attending a graduation party about 1:00 AM on June 24, 1978. When he went outside with others to check out a disturbance at another party in the neighbouring house he saw the offender with a bat in his hand, asked him to put it down, but instead was struck down unconscious with a blow to the head.

The applicant was in the hospital 5 days with concussion, facial bruising and injury to the right ear canal. He was left with tinnitus in that ear, and an occasional lack of feeling in his right hand.

The offender was convicted of assault bodily harm and sentenced to 3 months and 2 years probation.

The Board found the applicant compensable as a victim of violence Section 5 (a) and awarded him $4,000.00 pain and suffering 7 (1) (d); and $17.50 other pecuniary loss 7 (1) (f) for a total award of $4,017.50.

FILE: 922-018744

With the applicant's consent, this application was considered solely on the basis of the documentation filed.

About 8:00 PM on July 19, 1987 the 79 year old retired female applicant was outside her home. The offender greeted her as he passed by. He returned later and asked to use her telephone. As he was about to leave after placing his call he turned around and asked for a glass of water. He suddenly turned on her, wrestled her to the floor and assaulted her. When the victim managed to get back to her feet she grabbed a knife on a pretext and the frightened offender fled the house. Police were then called.

The applicant attended the hospital. A medical report noted a bite mark on the left side of her chest, contusions on her biceps, left thigh, over her left eyebrow, on her left wrist and on both forearms. There was ecchymosis of the third metacarpal of the right hand. She had fractured her left pelvis as well as the left lower ribs. She was also quite emotionally distraught and under considerable stress. She remained in hospital until mid-September.

When she was able to return home she suffered emotional and physical sequelae including weight loss, decreased mobility and an altered outlook on life manifested by a post-traumatic stress disorder. The Board considered a claim for alterations to her house necessitated by the assault. However, it is the Board's policy not to compensate for alterations to victim's property and this component of the claim was disallowed.

The offender was convicted of aggravated assault and sentenced to eight years in jail.

The Board found that the application qualified under Section 5 (a) and awarded $8,000.00 pain & suffering 7 (1) (d).

FILE: 922-015887

This application was originally brought before the Board by the applicant's father, the victim then being a minor. Since he has now attained his majority the application is carried forward in his name.

The applicant was a 16 year old male student who was attending a Halloween dance with his family on October 26, 1985. The applicant had gone outside to cool off. Meanwhile 4 youths had caused a disturbance and been ejected. The doors had then been locked. When the applicant saw the youths punching an elderly man he approached and asked what they were doing. The youth remembers little after this point except being punched, kicked and then punched again by one youth.

The applicant awoke to find himself lying in the parking lot. He was transported to a hospital where he was examined, x-rayed and released. His parents were told by the attending physician that the injuries seemed minor. He returned home and spent the next day in bed. When he woke up on the floor of his room screaming because of the pain in his head and began to vomit he was taken to another hospital from which he was transferred to yet another for diagnostic tests.

The applicant was diagnosed as suffering from a traumatic posterior fossa subdural hematoma. He subsequently underwent surgery after which he was very ill and encountered many complications including vocal paralysis, 12th cranial nerve paralysis etc. The post-surgical complications eventually resolved but the applicant had to undergo substantial therapy to regain his ability to speak and walk. The applicant was in intensive care for a month then spent another month in rehabilitation. Eight months later the doctor reported the boy seemed symptom free but stated that the question of full intellectual recovery could only be resolved by a judgement of the applicant's performance at school during the 3 months before Christmas. Two months after Christmas the doctor reported that the applicant was managing but not up to full capacity.

The applicant described to the Board the consequences of the occurrence on his daily living.

Though the occurrence was reported promptly to police and the applicant provided as good a description of the assailants as he could recall the police are not optimistic that the offender will be apprehended.

The Board found the applicant qualified under Section 5 (a) and awarded $1,818.75 for pecuniary loss-victim 7 (1) (b); $20,000.00 pain & suffering 7 (1) (d); $400.00 legal fees and $350.00 to the applicant's parents for a total award of $22,568.75.

FILE: 922-014332

The decision on this application, originally heard on May 20, 1987, was reserved pending the arrival of further medical reports. The applicant, a 43 year old male machine operator, had left his hotel about 6:15 PM July 14, 1984 to take a walk in the park across the street from the hotel. When he saw two youths beating an elderly man he went to his aid. The attackers fled, the applicant helped the man to his feet and he headed back to his hotel. He had only gone a short distance when he was himself attacked. Three men held him by the feet, another three held his arms while the seventh punched and kicked him. He was then thrown against a railing while his assailants fled.

The applicant sustained multiple soft tissue injuries. There were contusions to chest, abdomen and legs. His right eye was swollen and bruised. The left side of his jaw was bruised and sore for nine months. The applicant was particularly concerned about the kicks to the kidney and groin since he had undergone kidney surgery some time previous. There was bleeding from his kidneys for a year. The applicant continues to suffer from back pain which he is attempting to resolve with the assistance of a pain management clinic. He also was obliged to take advantage of psychological counselling for two months to handle stress. The applicant was absent from work for six and a half months.

One offender was sentenced to sixty days for assault.

The Board found the applicant qualified under Section 5 (a) and awarded $109.20, expenses 7 (1) (a); $8,000.00, pain and suffering 7 (1) (d) legal fees of $450.00 and disbursements of $51.35 for a total award of $8,610.55.

FILE: 922-016000

Hearing held in camera.

On June 14, 1985 the applicant, a 36 year old waitress who had previously suffered from cancer, had spent the evening out on the town with her brothers to celebrate a negative biopsy report. She had been attempting to sever a relationship with a boyfriend with whom she had been living intermittently. When she returned home she asked him to move out and then went to bed. She was later awakened by her boyfriend

but she refused his request for intercourse. He then forcibly tied her to the bed and assaulted her several times over a number of hours. After having forced the applicant to bathe he left.

She called family members who took her to the police and eventually to a sexual assault care clinic.Besides the ongoing emotional distress there were multiple bruises and abrasions on the applicant's neck, arms and legs. She attempted suicide about a week after the occurrence. However, she has come to realize that though her body had been violated her soul had not. At the time of the hearing she had found a steady job she enjoys and is engaged to be married.

The offender was given an 18 month consecutive sentence on a charge of buggery though a second charge arising from the incident was withdrawn.

The Board found the applicant qualified under Section 5 (a) and awarded $1,000.00 pecuniary loss-victim 7 (1) (b); $1,000.00 pain and suffering 7 (1) (d); $40.00 other pecuniary losses 7 (1) (f) and continuing monthly payments in the amount of $1,000.00 a month for eight months as well as $68.00 for chiropractic and sports injury clinics for a total award of $10,108.00.

FILE: 922-014811

An extension of the limitation period was granted for this application.

The applicant was a 30 year old female, who appeared before the Board with a friend to help with the translating since she speaks little English. The Board ascertained that the applicant was comfortable with his assistance. It offered the services of a professional translator but the applicant wished to proceed immediately because of all the delays which she had already encountered.

The applicant and her husband were both landed immigrants who had been united in an arranged marriage in Canada. They had one child at the time of the occurrence, another was born subsequently. On February 29, 1984 the husband got worked up about his wife and began stabbing her with a pair of scissors. He then took out a ceremonial sword and, slashing about in an unrestrained fashion, inflicted grave injuries on the applicant and her sister-in-law. The offender was finally subdued, the police were called and the applicant was taken by ambulance to the hospital.

The applicant had sustained multiple lacerations to the scalp. There were 2 stab wounds, one particularly deep, in the region of the left clavicle. Another near the breast had pierced the pleural cavity. There were severe lacerations to the wrist. As well there were fractures of both the left and right radius and ulna. Despite the best efforts of plastic surgery extensive scarring of the wrists remains visible.

The applicant divorced the offender, who was sentenced to 9 years on a charge of attempted murder and 3 years concurrent on a charge of aggravated assault. The applicant has since remarried and is awaiting the return of her children from the country of her origin.

Having due regard for all the relevant circumstances the Board found the applicant compensable under Section 5 (a) and awarded $4,500.00 for pain and suffering 7 (1) (d).

FILE: 922-014405

The applicant was a 35 year old female lab technician, who was taking a blood sample from a child, on March 1, 1985. The child's father, the offender, burst through the doorway yelling, and yanked the needle from the child's arm. As the applicant reached to swab the arm the offender punched her under her right shoulder, knocking her into the wall where she slumped, after straddling a garbage can, onto the floor. Staff who heard the commotion came to her assistance but had difficulty entering since the offender was standing in front of the door. The parents took their child and left.

The applicant immediately went to hospital where her injury was diagnosed as a mild trauma to her right pectoralis major. She both reported the incident to police and consulted her family doctor the next day. She was referred to another doctor whom she consulted on five occasions until November 8, 1985. This doctor reports that the applicant complained of pain in the muscles in the affected area and tenderness on direct palpation of the C4, 5 and 6 spinous processes. The applicant reported significant improvement with relaxation programming using biofeedback. Though the applicant was considered to be doing well and working full time on November 8 she was still complaining of soreness in her upper right arm, the shoulder and the right anterior chest. She was then attending therapy twice a week as well as carrying out a home exercise program.

The applicant continues to have a slight reduction of power in her right arm and takes medication for pain control. Because of a lack of sensation in her right fingers she has had to learn to make use of her left hand in some parts of her work. She underwent physiotherapy 38 times from May 21 to September 19, 1985.

The offender was found guilty of assault bodily harm and sentenced to 30 days imprisonment after a trial.

The Board found that the application qualified under Section 5 (a) and awarded $3,000.00 pain & suffering 7 (1) (d) a legal fee of $350.00 and disbursements of $410.00 for a total award of $3,760.00.

FILE: 922-011942

The 37 year old male applicant was a security guard on duty at a race track on October 30, 1983. A van drew up to the applicant's post at the East gate about 10:40 PM. When the applicant asked for their ID and two refused he informed them they would not be allowed to enter. They first verbally abused him then one of them got out of the van and grabbed the applicant. The driver told this man to cool it and pushed him away. But the offender kicked the applicant in the groin forcing him to the ground. The applicant ended up in the bushes about 25 feet from the gate. Another security guard appeared and led the applicant to the office. The police were called and the offenders arrested on the post.

The police took the applicant to hospital. Upon examination it was discovered that the applicant had a tender left temporal area and mandibular joint as well as tenderness to the left knee and right forearm. He was given the head injury routine and released. The applicant continued to complain of a painful right elbow and strong headaches. X-rays taken at the end of November revealed synovial chrondoromatosis. In December, 1985 the elbow was operated on and is now much improved. However, he continued to suffer from blackouts and dizzy spells till the spring of 1987.

The applicant was apprised of the provisions of Section 25 with regard to chiropractic bills and a payment for these expenses was later authorized by a variation to this Order.

The two offenders were charged with assault bodily harm. They were each given a suspended sentence, two years probation and were also ordered to pay $400.00 restitution each. The applicant has recovered $600.00 of this restitution.

The Board found the applicant qualified under Section 5 (a) and awarded $207.66 expenses 7 (1) (a); $2,668.00 pecuniary loss-victim 7 (1) (b); $2,500.00 pain & suffering 7 (1) (d) and $120.00 other pecuniary loss 7 (1) (f) for a total award of $5,495.66.

FILE: 922-015037

About 10:00 AM on August 30, 1985 the 35 year old male applicant was at work as an employment counsellor at a Canada Employment Centre. At that time he received a phone call from the offender who wanted to be enrolled in a particular program but was unable to convince the offender that he did not qualify for this program. A short time later the offender appeared in his office and sat in a chair at the applicant's desk. The applicant tried to explain to the offender that he needed an appointment to see him since other clients were already waiting. He asked the offender to leave several times but was finally forced to call the switchboard to arrange for a police presence. The applicant then got up and said that he had to speak to another client down the hall. The offender also rose, followed him and then struck the applicant from behind with a right elbow blow to his face. When the applicant fell to the floor the offender kept walking on and met the police who were arriving. He told them that he had come down to hit someone, had hit the applicant and that if felt good.

The applicant was taken to hospital by ambulance and kept two days in intensive care. His injury was diagnosed as a fracture of the left body of the mandible and of the subcondylar region. On September 1 the mandible and the maxilla were ligated under general anesthetic with the use of arch bar splints held to the teeth. This jaw fixation was removed on October 10. Elastics were put in place and the applicant given rehabilitative physiotherapy. He returned to hospital for the final removal of the wires on October 28. During this whole period and for some time after he was on a liquid diet. The rehabilitation program for the jaw muscles and the TM joints ran into several problems. Over 100 sessions of physiotherapy and the use of various types of occlusal splints were required. At the time of the Hearing the applicant continued to suffer from muscle spasms in the side of his face, pain in the jaw joints and still needed to wear an intraval appliance.

The offender was sentenced to six months in jail on a charge of assault bodily harm.

The Board found that the application qualified under Section 5 (a) and awarded $7,860.00 pecuniary loss-victim 7 (1) (b); $5,000.00 pain & suffering 7 (1) (d) a $400.00 legal fee and $475.00 disbursements for a total award of $14,235.00.

FILE: 922-016849

The applicant was a 58 year old trainman in the lead locomotive of a train about 4:00 PM on June 21, 1986. As the train emerged from under a bridge the applicant was struck by a piece of slag thrown through the open window. The engineer, aware that his co-worker had been injured, brought the train to a halt, went to a nearby marina and contacted both police and ambulance. A witness had seen two youths near the train, one throw a piece of slag and both fleeing the scene. The witness followed one of the youths to his home.

The applicant was transported to hospital by ambulance. A 4 cm. laceration and a comminuted fracture of the left mandible were noted. The applicant was then transferred to another hospital for an open reduction of the mandible fracture. The surgeon noted that he had never seen so many small pieces of bony comminution in a mandible. Approximately 15 pieces were removed before the five remaining fragments were stabilized with multiple interosseous wires and an A.O. compression plate. A good occlusion was achieved and intermaxillary wiring was not required. The two lacerated ends of the severed mental branch of the mandibular nerve were sutured before the laceration and the incision were themselves sutured. The applicant was observed to have no mental nerve sensation and a decrease in the sensation of the mandibular nerve on the left side as well as a weakness of the jaw movement on the same side.

The applicant was discharged from hospital on June 28, 1986 and remained on a soft food diet until early October by which time he was feeling much better though continuing to suffer from numbness in the left chin area and a lack of muscle control around the left lower lip. After a period of time the compression plate became exposed and the applicant underwent further surgery for its removal on January 19, 1987. Over the next few days he experienced growing pain and swelling about the site of the incision. The wound began to drain so the applicant returned to hospital again on January 22. He was re-admitted for treatment of a post-operative facial infection. This responded well to treatment and he was again discharged on January 27. A few days later he was already feeling much better.

The applicant testified before the Board that certain situations demonstrate to him that his nerves continue to be somewhat shaken as a result of the occurrence. Dental work had also been required as a consequence of the injury. A crown was required for tooth 3.3, splinted to a crown on tooth 3.4 and a new lower partial denture. These expenses have all been covered by the WCB.

The applicant provided documentation in support of a claim for loss of income. He was absent from work from June 22, 1986 to August 22, 1986 including a vacation period from August 8 on. After considering all the evidence including the WCB benefits received the Board ordered a payment of $2,783.79 with respect to the net loss of income.

The witness who had observed the youths was unable to identify them in a lineup. As a result no charges were ever laid in respect to this occurrence.

The Board found that the application qualified under Section 5 (a) and awarded $32.60 expenses 7 (1) (a); $2,783.79 pecuniary loss-victim 7 (1) (b) and $7,000.00 pain & suffering 7 (1) (d) for a total award of $9,816.39.

FILE: 922-016486

The applicant, a 32 year old police officer, was shot point blank in the side of the head at approximately 2:45 AM on February 5, 1986 after he had followed a car into an apartment parking lot to make a routine driver's identity check. He was sitting in the cruiser when the offender's first shot threw him sideways on the seat. The second shot completely shattered the front windshield of the cruiser. When the applicant managed to crawl out of the car and get to his feet, the offender knocked him to the ground then sat on his chest, put his gun in the applicant's mouth and fired three times. These three shots all misfired. The offender kicked the applicant repeatedly before returning to his car and fleeing after the applicant was able to call for help on his portable radio.

The applicant was in hospital for two weeks. He spent four hours in the operating room to repair the wound to the left temporal region and remove the bullet fragments some of which still remain. He was in extreme pain for the two weeks he was in hospital and the first three weeks after his return home. He has sustained a complete hearing loss in the left ear which continues to buzz and ring constantly. His memory and ability to concentrate have also been impaired.

Some nine months after the occurrence the applicant developed severe pain, described as unbearable, in the left side of his face. It took four months to bring this under control through the use of medications which continue to be required. There have been continuing problems with dizziness and a loss of the sense of balance. The severe emotional trauma have included besides the trauma of the occurrence itself the continuing pain and the concern for his physical recovery as well as concern for his future and his career.

Expert advice confirms that acute trauma normally persists for at least two years following such an occurrence. Happily the applicant was able to return to work in February, 1987. However, his hearing loss will make it impossible for him to return to his former job and the continuing problems with his memory and concentration seriously impair his ability to write the exams necessary for the advancement of what his superiors described as a very promising career. He has however set goals for himself which, considering the courage and determination he has hitherto shown, the Board feels confident he will achieve.

The offender was sentenced to 15 years for attempted murder.

The Board found that the application qualified under Section 5 (a) and awarded $25,000.00 pain and suffering 7 (1) (d), the maximum under the Act, and a legal fee of $500.00 for a total award of $25,500.00.

FILE: 922-017634

With the applicant's consent, this application was considered solely on the basis of the documentation filed.

The applicant was a 24 year old housewife who answered a knock on the back door of her house at approximately 12:30 AM January 10, 1987. A male standing there asked who she was and when she acknowledged her identity produced a knife and stabbed her in the upper left side of the abdomen beneath the rib cage. He then said, "This is for your husband" and left. Her husband had testified against his co-accused in a robbery case and had received a letter in which his wife was threatened.

The applicant was taken to the hospital. The stab wound had made a very superficial laceration to the stomach, transverse mesocolon and pancreas with only the seromuscular layer involved in the stomach and the peritoneal layer over the pancreas. Fortunately, when she pulled back from the knife she avoided what could have been a very serious injury. The injuries were repaired in a laparotomy procedure from which she recovered expeditiously and without incident. There is, however, a possibility of a pseudocyst of the pancreas developing in the future.

The application was for pain and suffering and for 24 hour mothering care of the applicant's children provided by a friend. The Board found the request for 21 days and nights at $12.00 per day a reasonable request and ordered compensation accordingly.

Though the applicant provided a good description of the offender no one has yet been apprehended in this occurrence.

The Board found the applicant qualified under Section 5 (a) and awarded $3,500.00 pain & suffering 7 (1) (d) and $252.00 to the friend for the care previously referred to for a total award of $3,752.00.

FILE: 922-012677

Hearing held in camera.

This application was made by a 39 year old separated mother on behalf of a 15 year old son, the second of her three children, who had been a victim of sexual assault for approximately two years. At his own request the victim was first interviewed at the Hearing alone with his solicitor and then in the company of his parents. He had first met the offender in 1982 at a restaurant in the company of his father with whom he, his older brother and his sister were living after his parents separation and the departure of his mother. The offender befriended the family and gradually became more involved with the victim in a series of athletic and social endeavours. The sexual encounters gradually developed when they were alone and though the victim felt uncomfortable with them he enjoyed the other activities and the individual attention provided by the offender. The parents felt no reason to suspect anything and felt that the offender was good and helpful to the victim who had been told to say nothing because it would cause problems.

In September the victim moved to another city with his mother and started high school. The offender moved to a nearby city about the same time and occasionally visited the city where the applicant was living. By this time the victim was becoming much more uncomfortable with the situation but felt guilty about hurting the offender. He started missing school, drinking and using drugs. Unable either to express his concerns to his parents or to deal with the pressure, he frequently considered suicide. He finally spoke to his mother in January, 1984 and she reported the situation to the police. However, this apparently only increased the boy's feelings of guilt and self-loathing and he found it difficult to talk to anyone, continued his substance abuse and stopped attending school. The destructive tendencies continued until he suffered a drug-induced seizure at the end of the summer of 1984 and entered a three month recovery program in a treatment centre.

At the Hearing the victim expressed satisfaction with the effects of this recovery program. He had found it reassuring to know that he was not the only one to have suffered this type of assault and the group discussions and staff support had helped him recognize and cope with his problems. He has returned to school where his grades and attendance have both improved. He expressed an interest in pursuing a career in outdoor education and was enthusiastic about his involvement the previous summer in the Junior Ranger program.

The Board allowed $1,400.00 for the applicant's expenses but declined a claim for loss of income because of the inadequate documentation and the applicant's inability to establish a clear monetary value for the lost income. The Board noted that the applicant had purchased a business which had lost money in the previous year but from which she had made a small profit. Though this was less than what the applicant had anticipated the Board had no basis upon which to assess the potential of the business.

The offender was found guilty of sexual assault and sentenced to 15 days plus two years probation.

The Board found that the application qualified under Section 5 (a) and awarded $1,400.00 expenses 7 (1) (a); $110.00 other pecuniary loss 7 (1) (f) as well as a $350.00 legal fee and $110.00 to the victim's father for

his travel expenses to attend the Hearing. The Board also ordered that the victim be paid $5,000.00 compensation on or after his 18th birthday in April, 1987 for a total award of $6,970.00.

FILE: 922-016047

Hearing held in camera.

On October 8, 1985 this nine year old boy was reported missing. He arrived home the next morning at 7:00 AM naked except for his socks.

He was taken to hospital sleepy, frightened and fearful. He would not explain what had happened until later that day. Sticky dirt and blond hair were found about his nose and mouth. There was a linear rope mark about his neck with a knot-like criss-cross reaching to the left of his trachea. There were scratches and bruises over his shoulder, back, buttocks and left posterior chest. A rectal exam revealed peri-anal excoriation. The diagnosis was sexual assault. Further examination revealed an ecchymotic area to the right side of the sclera in the right eye as well as a subconjunctival hemorrhage in the right eye for which no explanation could be found. There was a large ecchymotic area with abrasions to the base of the penis and redness of the testicle. Dirty areas on the buttocks and back suggested that he might have been dragged over the ground.

A medical report states that the extent of the abuse was 'horrendous'. It was felt that the victim had probably been subconscious through much of it and had been 'left for dead'. The mother told the doctor of a three month period subsequent to the assault on the boy when he hid his head, had nightmares, threw tantrums and had misdirected anger against his mother. The boy was involved in counselling and saw a psychiatrist twice. The offender had returned to the neighbourhood and this was a source of great stress for both mother and son. The doctor felt that the boy might have further problems related to the assault.

The young offender was in secure custody after his arrest on October 8, 1985. He pleaded guilty to assault bodily harm in April, 1986 and on June 23, 1986 was sentenced to sixty days open custody followed by 13 months probation.

The Board drew attention to the provisions of Section 25 should there be further counselling or other expenses arising as a direct result of the assault.

The Board found the application qualified under Section 5 (a) and awarded $80.00 other pecuniary loss 7 (1) (f) $65.50 to a witness and ordered that $7,500.00 be paid to the Accountant of the Supreme Court of Ontario under Section 36 (6) of the Trustee Act to the credit of the victim to be held until he attains his majority for a total award of $7,645.50.

FILE: 922-016014

Hearing held in camera.

An extension of the limitation period was granted for this application.

The applicant, who is now divorced from the offender, brought the application on behalf of her daughter. The child was 7 years old in August, 1984 at the time she revealed to her grandmother several incidents of sexual assault on the part of her natural father. The child attended the hearing. Though it was the stated purpose of the child's legal representative to have the child testify 10 minutes, questioning by the Panel Chairman was fruitless and the child was excused. Documentary evidence filed with the Board indicated that the abuse had extended over a period of time. The child had already undergone two years of therapy sessions with beneficial results but a report presented to the Board indicated that this minor, her younger sister and their mother had been and continued to be adversely affected by the abuse. The report indicates as well the possibility of further psychological problems surfacing and impacting on the child as she attains puberty and on into early womanhood. The Board drew to the attention of the affected parties the provisions of Section 25.

The offender was convicted and received a suspended sentence plus three years probation.

The Board found the minor child qualified under Section 5 (a) and awarded the applicant expenses of $624.00 7 (1) (a). It ordered that $4,500.00 be paid to the Public Trustee to the credit of the minor to be paid out at his sole discretion for assisting in the education and general welfare of the minor. At the age of 21 any funds remaining shall be remitted to the victim and the trust shall terminate. The total award was $5,134.00.

FILE: 922-016475

Hearing held in camera.

With the applicant's consent, this application was considered solely on the basis of the documentation filed.

The applicant is the mother of the victim, an infant son, who she had left in the care of his regular babysitter at approximately 7:30 PM, October 21, 1985 at her home. When she became aware that she had forgotten something the applicant returned home unexpectedly to discover an act of sexual abuse by the female babysitter in progress.

The babysitter was a ward of the Children's Aid Society who advised that both mother and child receive counselling at a counselling service of their recommendation. The counsellor reported to the Society on seven sessions attended by the victim and his mother. She reported that the infant had sustained trauma in four areas: nightmares, disruption of the mother/child bond, interactional problems with peers and confusion and anxiety about his genital area. By the end of the sessions the bright and engaging child with superior verbal skills no longer had nightmares and the bond with his mother had been re-established. The peer interaction problem was reported to be receding and was expected to diminish further as the child's ability to trust was re-established. His anxiety over play with anatomically correct dolls also receded under continuing reassurance and information. The social worker anticipated that long term trauma as the child reached puberty would likely be offset by the child's basic affability and optimism combined with the support of his very caring parents.

The offender pleaded guilty to the charge of sexual assault and was sentenced to three years probation.

The Board found that the application qualified under Section 5 (a) and awarded $450.00 expenses 7 (1) (a) and ordered that the sum of $1,500.00 be deposited with the Accountant of the Supreme Court of Ontario under Section 36 (6) of the Trustee Act to be held to the credit of the victim until he reaches his eighteenth birthday. The total award was $1,950.00.

FILE: 922-017000

Hearing held in camera.

This application was brought forward by a Children's Aid Society with the assistance of and represented by the Office of the Official Guardian on behalf of a minor, born in 1970, a victim of repeated acts of sexual and physical abuse on several dates prior to and until February 7, 1985.

Though the abuse is medically proven the extreme resulting trauma has made it impossible to determine the details of the abuse or for the Crown to proceed with the appropriate legal charges against the father and the brother of the victim.

Since the abuse was discovered in February, 1985 the victim has been involved through the CAS with extensive and intensive therapy. Psychological reports filed with the Board describe a child with overwhelming amounts of anxiety, facing many difficulties who will need much special training to learn the skills of independent living. She will require much physical and emotional nurturing. From the evidence filed with the Board and the testimony of social workers it is still much too early to assess the future impact of the traumatic experiences she has gone through. Her present needs are being fully met by the CAS. Her future needs cannot now be predicted.

The Board found the victim qualified under Section 5 (a) and ordered that $12,000.00 be paid to the Public Trustee to be held in trust until she is eighteen and then paid out at $100.00 a month until the fund is depleted.

FILE: 922-016008

Hearing held in camera.

On June 1, 1985 the applicant's four year old daughter had been playing at a friend's home up the street. As she returned home about 7:30 PM she passed by the neighbour's home where a 72 year old male pensioner was sitting on the porch with his dog. It was alleged that he called her up to the porch to see the dog, but then had exposed his penis to her, had her touch it several times and kissed her. Her brother happened to come along then and they later told their parents about the incident.

The parents discussed the matter and contacted police. The child had suffered no physical injury or violence but it was the Board's view that the evidence suggested that future counselling could be of assistance.

The alleged offender was charged and committed suicide on August 14, 1985 before he could be tried in court.

The Board found the applicant qualified under Section 5 (a) and since it found that it had insufficient evidence before it upon which to grant an award for pain and suffering declined to do so. It therefore reserved its decision for expenses regarding future counselling pending the receipt of written evidence. Under the provisions of Section 22 it awarded travel expenses of $56.00.

FILE: 922-016117

Hearing held in camera.

The application was brought forward by the mother, with the assistance and represented by the Office of the Official Guardian, on behalf of a minor victim born in February, 1981. There were alleged repeated occurrences of sexual abuse of the victim by a neighbouring young offender until July 7, 1985. The abuse has been confirmed medically but the resulting trauma and the age of the victim have made it impossible to determine

the details of the abuse or for the Crown to proceed with appropriate legal charges.

Psychological reports filed with the Board describe radical behaviour changes including mood swings, nightmares and regressive bedwetting. The psychologist also reports unusual anxieties and fears for a five year old. The child was described as charming and intelligent with an extensive vocabulary for a child of her age.

The applicant and the agent from the Office of the Official Guardian were advised of the provisions of Section 25 in regard to further claims for psychotherapy sessions. An interim award of $1,100.00 had been previously granted to defray costs of psychotherapy sessions.

The Board found the application qualified under Section 5 (a) and awarded $120.00 expenses 7 (1) (a) and ordered the payment of the sum of $5,000.00 to the Accountant of the Supreme Court of Ontario under Section 36 (6) of the Trustee Act to be held to the credit of the victim until she attains her eighteenth birthday. The total award was $5,120.00

FILE: 922-016942

Hearing held in camera.

The application was initiated by the victim's uncle but since she is now 18 the application continues in her name.

On October 17, 1986 the then 17 year old applicant was living with her mother and step-father, the offender. While the applicant was away at her part-time job the offender murdered her mother. When she returned home he struck her on the head with a claw hammer then dragged her onto a bed and sexually assaulted her. The offender tied her to the bed and attempted another sexual assault. She was tied to the bed for several hours before she was able to free herself. When she went to the living room she saw the offender lying to the left with a self-inflicted wound and the body of her murdered mother to the right. She finally managed to phone for assistance.

The distraught applicant was taken to hospital by ambulance. The hospital report noted dried blood in her hair as well as a red and swollen 4 x 3 cm abrasion in the right parietal area. Both wrists were surrounded by red linear marks. There were also red marks on her right cheek and both knees. She had slight injuries in the vaginal area. The rape kit procedure was followed. She was then released into her uncle's care but asked to return in a few days for a skull x-ray. On October 23 this x-ray revealed a depressed skull fracture involving the superior anterior portion of the parietal bone in the mid-line area 2.5 cm long by 3.5 cm wide. The maximum depression was 5 mms. A neurosurgeon advised against treatment of the skull fracture. The applicant testified that she had suffered no ill effects from the fracture. She was absent from school and her job for several weeks incurring a loss of income.

The applicant resided with her uncle's family until June, 1987 when she took up residence with a cousin. She completed her academic year but when she began classes in September, 1987 she realized she needed a break. She has, however, continued working at her part-time job. She suffers from headaches, insomnia and incapacitating flashbacks which can last only minutes or up to an hour. Though she has the support of an extended family, an assessment report states that she is feeling inappropriate responsibility and guilt for her mother's death which is impacting negatively on her grieving and healing process. The report outlines a program of anticipated future support/assistance needs. The applicant was advised of Section 25 regarding any future expenses directly related to this occurrence. She advised the Board of her current plans for furthering her education.

The offender pleaded guilty to the murder of the applicant's mother. The circumstances of the attempted murder and the sexual assault were also presented before the court. He was sentenced to life imprisonment with no parole eligibility for 25 years. He had previously been convicted of non-capital murder in the death of his mother in 1965.

The Board found that the application qualified under Section 5 (a) and awarded $300.00 pecuniary loss-victim 7 (1) (b); $5,000.00 pain & suffering 7 (1) (d) as well as continuing monthly payments of $300.00 a month for three years. The Board also ordered that her uncle be paid $917.00 for funeral expenses, a witness fee and travel expenses to the Hearing. The Board also authorized a legal fee of $350.00 and disbursements of $453.00 for a total award of $17,820.00

FILE: 922-016088

Hearing held in camera.

An extension of the limitation period was granted for this application.

The applicant was the mother of the victim who was nine years old when she was sexually assaulted by her step-father. She was first assaulted while visiting her step-father, who had visiting rights, with her two half sisters. All three children were asleep on a pull-out couch when the offender removed the other children and attempted, or completed, anal intercourse with the

victim. The victim woke up and ran into her sister's room. The children locked the door and the offender agreed to take them to their mother in the morning when the youngest child asked to be taken home. First he warned the victim not to say anything under threat of consequences to the family. On a second occasion the victim, who had kept silent, refused further advances but had her hands tied behind her back while the offender attempted vaginal intercourse unsuccessfully. When the offender attempted intercourse with the victim's step-sister, who was the offender's natural daughter, on another occasion that child spoke to her mother who then called the CAS and the whole picture was unfolded to the police.

The children attended the trial though fearful of their father's presence. The victim had not known, until advised by her mother after the second assault, that the offender was not her natural father. This information created additional confusion for the child. The victim became fearful of being out of her mother's sight, suffered continuing nightmares, became aggressive with her younger sister, angered easily, became tearful and had a serious dropping off in her academic standing which had formerly been in the "A" category. She did not respond to a psychiatrist. Though the family moved to seek a new environment and friends, emotional problems persist. A social worker has continued to provide assistance to the child but the parents are considering further psychiatric help since the victim is still very upset and displays a temperament very different than that natural to her before the assaults. Her mother keeps her involved in sports to help distract her.

The offender was sentenced to four months in jail plus three years probation after pleading guilty towards the conclusion of the trial to two counts of sexual assault.

The Board found the application qualified under Section 5 (a) and ordered that the sum of $5,000.00 be paid to the Accountant of the Supreme Court of Ontario under Section 36 (6) of The Trustee Act to be held to the credit of the victim until she reaches her eighteenth birthday. The Board also awarded $179.50 other pecuniary loss 7 (1) (f) and the reimbursement of a day's wages, $60.00, to the victim's new step-father, for driving the family to the court appearance, for total compensation of $5,239.50.

FILE: 922-017219

Hearing held in camera.

Between September, 1985 and April, 1986 the victim and her sister (file: 922-017218) were occasionally left by their mother, the applicant, (file: 922-017217) in the care of a 14 year old boy as babysitter. In April, 1986 the victim's sister told her mother that the boy was touching her in places he was not supposed to. This victim told her mother the same story when she questioned her. After investigation both the police and the CAS believed the girls' story. They received counselling through the CAS. The victim was obliged to attend another school since the alleged minor offender was a student in the same school. At the date of the Hearing the victim was much improved and getting involved in sports.

Because the alleged offender was a minor and the victims were too young to testify in court no charges were laid since the police considered it futile to do so and that it would only cause more emotional damage to the victim and her family.

The Board found that the application qualified under Section 5 (a) and ordered that the sum of $3,000.00 be deposited with the Accountant of the Supreme Court of Ontario under Section 36 (6) of the Trustee Act and held to the credit of the victim until she attains her majority in 1998.

FILE: 922-016655

Hearing held in camera.

The application was brought before the Board by a Children's Aid Society on behalf of the victim, a minor ward of the Society. It is alleged that the 16 year old victim and another girl went to an auto body shop in the early evening of July 2, 1986. They left the shop but the alleged victim returned later that evening. She alleged that she was then sexually assaulted by the proprietor. She met a staff member from her place of residence on the way home and told her what had happened. Police were then notified.

The investigating officer testified before the Board that the child; of limited intellectual ability, was as incapable of lying as she was of repeating the same story twice on separate occasions unless she was telling the truth. She was taken to a hospital where a medical investigation revealed multiple bits of dark brownish material that looked like dry blood. An internal examination could not be carried out because of the alleged victim's complaints of pain and discomfort. The doctor's report stated his opinion that he was dealing with a girl who had had a first intercourse and that there was sufficient blood to support the facts she had given. The girl did not have the appropriate sexual words to describe what had gone on.

Professionals involved in the care of the victim are unable to predict the future impact of this occurrence. They believe, however, that when she does become sexually active she will encounter a period of significant emotional trauma arising from this incident though counselling does not seem a viable option.

Sexual assault charges were laid against the alleged offender but were withdrawn at a preliminary level when it was apparent that the child was incapable of giving adequate testimony in court.

However, the standard of proof before this Board is the balance of probabilities. Having carefully considered all the evidence and relying upon the medical documentation submitted and the testimony of the investigating officer, both of which the Board accepted, the Board found the child to be a victim under the Act.

The Board found that the application qualified under Section 5 (a) and ordered that the sum of $3,600.00 be paid to The Accountant of Supreme Court of Ontario under Section 36 (6) of the Trustee Act to be held to the credit of the victim until she reaches her 21st birthday and then be paid out in three equal instalments on June 20, 1991, 1992 and 1993 to a trustee appointed by the Children's Aid Society or failing that to the Public Trustee. The Board also authorized the payment of $82.50 to the police witness for a total award of $3,682.50.

FILE: 922-014291

Hearing held in camera.

This application was originally initiated by the victim's mother but is carried forward in his name since he is now 18 years old.

The applicant, then a 14 year old boy, was working with a carnival on June 22, 1984. He had been invited to the offender's apartment for a beer, given several and, when he became drowsy, sexually assaulted. The applicant was struck several times as he tried to leave the apartment but managed to flee. He was very agitated while on the street and eventually taken to the hospital by ambulance where he was released later that evening though still very upset by the occurrence.

A psychologist who submitted a written report on the applicant and testified at the Hearing examined the applicant six days after the assault and substantiated the veracity of his account of the assault. He treated the applicant intensively from June 28 to December 19, 1984 though the treatments were later discontinued because the applicant would no longer attend. The psychologist continued to work through the applicant's mother and saw her on seven occasions between April, 1985 and December, 1987. He saw the applicant, diagnosed as suffering from a post-traumatic stress disorder, chronic type with sequelae of severe, agitated depression, severe anxiety states and a moderate to severe impulsive behaviour disorder, once again in February, 1988. The psychologist stated that this syndrome is a separate syndrome arising from a traumatizing event such as a sexual assault and is not linked to the patient's prior history. His prognosis was guarded. He expected that the applicant would need therapy for up to two years to accomplish a satisfactory adjustment. The Board advised the applicant of the provisions of Section 25 regarding future costs for therapy. The Board agreed to pay the net cost of this therapy when submitted on a semi-annual basis and sincerely hoped the applicant would avail himself of the treatment to hasten his recovery.

The Board ordered the applicant's mother be reimbursed for a number of expenses met by her including the cost of therapy sessions above the amount covered by insurance, transcripts and $1,750.00 paid to a solicitor to ensure a 'closed' court at the preliminary hearing and to assist the applicant to deal with his court appearances as the psychologist deemed necessary for the applicant's well-being.

The offender eventually pleaded guilty to sexual assault and was sentenced to 120 days in jail and 18 months probation.

The Board found that the application qualified under Section 5 (a) and awarded $500.00 pecuniary loss-victim 7 (1) (b) $5,000.00 pain & suffering 7 (1) (d) to be paid out in 30 monthly instalments of $150.00 each; a $700.00 legal fee; $225.00 disbursements and $2,579.15 as reimbursement for the expenses covered by the applicant's mother for a total award of $9,034.15.

By a subsequent variation to this Order the Board authorized a payment to the psychologist for his attendance at the Hearing: $125.00 expenses incurred 7 (1) (a).

FILE: 922-016816

Hearing held in camera.

An extension of the limitation period was granted for this application.

This application was brought by the Official Guardian on behalf of a minor child born March 6, 1984. The child was taken to a hospital on March 24, 1985 apparently on the insistence of the child's grandmother. The child's elbows and right leg were enlarged with limited movement. X-rays revealed old fractures of the left and right elbows, a swollen right leg with new bone formation at the right ankle and a possible chip fracture of the left knee. The infant also had some dermatitis behind the right ear and an inflammation below the lower lip. The child was immediately admitted for observation and investigated for possible child abuse. The hospital staff noticed that the child was unresponsive and sad whenever the parents visited

though happy and playful when with the staff members.

The mother admitted to police and the hospital social worker that the child was unwanted and that since she blamed the child for her marital difficulties she had abused her. Though there had been concern that the elbows might not heal properly medical reports indicate that the fractures are healing properly. The situation is still being monitored.

A picture of the child shows a permanent scar below the lower lip. There was nothing to indicate in the medical reports whether the inflammation which left that scar was a result of a crime of violence. The Board advised the applicant that it would consider any further evidence to document this under Section 25.

The child was made a Crown Ward and subsequently adopted. Though she was originally very frightened and subject to nightmares the child is now responding well in her new home.

The offender was convicted of aggravated assault and sentenced to a year in prison and three years probation. A psychiatric assessment was ordered as well.

The Board found this victim compensable under Section 5 (a) and ordered that the sum of $5,000.00 be paid to the Accountant of the Supreme Court of Ontario under Section 36 (6) of the Trustee Act to be held in trust for the victim until she reaches the age of eighteen in 2002.

FILE: 922-015558

This application was brought forward by the grandfather on behalf of his seven year old grandchild. On August 9, 1985 the minor's 25 year old mother was murdered. The minor was present in the home where the shooting took place though she did not witness the occurrence. The assailant, her mother's boyfriend, has left the minor with many negative memories. A psychiatric report notes the child's problems with her identity and a confusion about where she belongs. The relationship between her mother and the boyfriend had been stormy, psychologically threatening and abusive.

The psychiatric report diagnoses the minor as having suffered an adjustment disorder with mixed emotional features with depression, anxiety and anger. There is no present evidence of a thought disorder, although she may be more vulnerable when she faces her adolescence. The Board has taken the position in previous decisions that the injury defined in Section 1 (1) (d) of the Act may constitute a compensable mental or nervous shock to third parties who may not have received or sustained physical injuries as a result of a crime of violence when the nervous shock constitutes a genuine emotional disorder or psychoneurosis so perceived and appropriately documented that it is clearly distinguishable from the grief or sorrow which would be considered normal in a particular tragic set of circumstances. The Board was particularly aided in its deliberations by the excellent medical reports and the related oral evidence as well as the representations of counsel. It is satisfied that the minor child has sustained such a genuine emotional disorder brought about by this tragic event.

The applicant had also claimed for loss of parental support. There is an order of the Provincial Court (Family Division) directing the child's natural father to pay interim support of $70.00 per month into Court. To date no support has been paid. Final custody of the child was awarded to the applicant and his wife on March 27, 1986. Documentation on file with respect to the deceased victim's work history did not support a claim for loss of support therefore this aspect of the claim was denied.

The alleged offender committed suicide shortly after shooting the victim.

The Board found the application qualified under Section 5 (a) and ordered that the sum of $5,000.00 be paid to the Accountant of the Supreme Court of Ontario under Section 36 (6) of the Trustee Act to be held to the credit of the minor until she attains the age of eighteen years. The total award therefore was for $5,000.00.

FILE: 922-017339

On May 30, 1986 the applicant left her ten month old daughter with her babysitter. When she returned to pick her up about 4:00 PM the babysitter told her that there had been an accident. The mother looked at her child and saw that her face and neck were red and that her cheeks were bruised. The offender's story was that another small child in her care had overturned the applicant's baby in her seat and then knocked her against a door.

Fearful that her child had been seriously injured the mother immediately took her to hospital. The baby was examined there by three doctors who immediately reported the case to both the Children's Aid and the police since the injuries could not have been caused by another child but only by an adult.

Hospital records and photos filed with the Board indicate that she had multiple facial bruises as well as a subconjunctival hematoma in the left eye. There were no fractures. The baby was discharged three days later and has not required further treatment.

The applicant described to the Board the effect on her

of this assault on her child. She still gets very upset and has nightmares over the incident. She became over-protective and since she could not find a private sitter to whom she felt able to entrust her baby she was absent from her part-time job for seven weeks.

The offender was found guilty of assault and sentenced to fifty days in jail and two years probation.

The Board found the applicant qualified under Section 5 (a) and ordered the $2,500.00 be paid to the Accountant of the Supreme Court of Ontario to the credit of the victim for pain and suffering to be invested and held for her until she reaches the age of eighteen. The Board also ordered the payment of the applicant's pecuniary loss of $700.00 7 (1) (b) and other pecuniary loss of $36.00 7 (1) (f) as well as legal fees of $500.00 and disbursements of $74.75 for a total award of $3,810.75.

FILE: 922-013330

An extension of the limitation period was granted for this application.

The applicant, the mother of the victim born October 3, 1982, was living with the offender, the child's father. On January 3, 1983 the applicant took her daughter in for her three month checkup. The child was immediately hospitalized then transferred to another specialized hospital where she remained until March 14, 1983. The child was showing increased head size and a left retinal hemorrhage. X-rays showed diastasis of the sutures and a fracture. A CT scan also revealed moderate bilateral subdural hematomas. On January 7, 1983 the subdural hematomas were drained under pressure through burr holes. On January 17, 1983 the left subdural hematoma was aspirated through the coronal suture. Again on February 4 thick fluid was evacuated from bilateral posterior frontal and anterior parietal bone holes. On February 14 the burr holes were extended into a small craniectomy on the left side and the left subdural hematoma was drained. On February 25 a left sided subdural peritoneal shunt was carried out. Investigation in hospital revealed a healing fracture of the left humerus.

In May, 1985 the child was seen by an orthopedic surgeon regarding her walking on the left side on tiptoes. After a pediatrician diagnosed her condition her left leg was operated on in September, 1985. She was in a full leg cast for about a month. Since November, 1985 the child has been undergoing physiotherapy once or twice a month. She has also been attending monthly speech therapy sessions since November, 1985.

After the Hearing the Board received a report from the senior neurosurgeon at the specialized hospital who stated that in her first year she had suffered an extremely severe physical injury and has been extremely fortunate to recover to the extent that she has recovered. She required five major procedures on her head and one on her left ankle. She is a delightful, very active little girl who has no seizures or headaches, whose speech is normal and whose future outlook is good though one cannot predict her skill progress at this time.

The applicant was advised of the provisions of Section 25.

The offender was convicted of assault bodily harm and sentenced to 2-1/2 years.

The Board found the application qualified under Section 5 (a) and ordered that $10,000.00 be paid to The Accountant of the Supreme Court of Ontario under Section 36 (6) of the Trustee Act to be held on behalf of the victim until she attains the age of 18. It also awarded $500.00 expenses 7 (1) (a); $54.50 other pecuniary loss 7 (1) (f) and $50.00 for a doctor's report for a total award of $10,604.50.

FILE: 200-2846

With the applicant's consent, this application was considered solely on the basis of the documentation filed.

This application was originally brought forward on September 3, 1976 as a claim for funeral expenses for the applicant's son murdered on April 28, 1976. The claim was for $3,285.00 though as a result of his son's death the applicant received, from a variety of sources, amounts totalling $30,416.22.

The Board's Registrar had requested further information in a letter dated September 9, 1976 drawing attention to what is now Section 17 (3) of the Act requiring the Board to take into consideration benefits paid to the applicant from any source. In a letter dated July 29, 1977 the applicant's solicitor informed the Board that he had been instructed to discontinue the application and the Board closed its file.

During July 1987 the Board was contacted by the victim's brother on behalf of his father wishing to proceed with the application. A request for an extension was filed stating that the applicant was unaware of this form of compensation until he read an article in a newspaper. In light of the original application this seemed a strange statement. The Board advised the brother of the existence of the original application and the subsequent withdrawal in a letter of August 26, 1987. The brother then replied that the applicant did not remember advising his solicitor to discontinue the

application nor did he know that his solicitor had been in contact with the Board. The Board also found this a strange statement since the applicant had been represented throughout the original application by solicitors.

Nevertheless, the Board re-opened the file and was informed by the brother in a letter dated October 27, 1987 that the application is based upon the same information as the original application.

The Board found, that based on the information filed, the benefits received by the applicant as a result of the victim's death far exceeded the amount of the funeral expenses. Without further documentation that the assets of the victim's estate were insufficient to cover the liabilities the Board, having regard to the provisions of Section 17 (3), denied the application.

FILE: 200-9756

The applicant, a 43 year old unemployed male, claimed that, as he was sitting in the kitchen of a friend's home in the late evening on July 13, 1981 with 2 friends drinking coffee after attending a funeral in Toronto, three masked men entered the house by three different doors and began firing hand guns at them. He claimed that he dived for the floor but that one of the gunmen came up to him and deliberately shot him in the knee. All, but the one who was lying unconscious on the floor, were ordered to the basement, where the gunmen tied them up and ripped out the telephone. A gunman remained on guard outside awaiting the owner of the house and another man who had left earlier. There were three pit bulls tied up in the yard but except for one dog's barking about 10 PM they made no disturbance.

The police were called to the residence about 2 AM the following day and a preliminary investigation rapidly brought to light major discrepancies between the story told by the applicant and his friends and the physical evidence on the scene. A police witness testified at the Hearing that approximately 25 shots were exchanged between the applicant's group and the gunmen. A neighbour reported hearing gunshots and a dog barking at 10 PM. Handwashings showed that the applicant and one of his friends had recently fired a weapon. The applicant gave varying versions of the occurrence during 4 or 5 interviews with the police in hospital, when he had recovered and was lucid and alert. The investigation was seriously hindered by the misinformation provided to the police. It was the police witness's opinion that the group had sat around from 10 PM till 2 AM concocting the story they told police. The applicant admitted to the Board that he did not tell the truth in order to protect his friends several of whom were known to the investigating officer.

When the applicant was admitted to hospital he was treated for a compound fracture of the right knee caused by a 22 calibre bullet which had entered through the medial aspect of the right knee and was embedded in the femoral condyle. The applicant refused to tell the hospital how the injury occurred. He recovered well but had to return to the hospital briefly because the wound became infected, dead tissue had to be removed and several hematomas had to be evacuated.

The applicant stated that he can only do physical work for 3 or 4 hours at a time but withdrew a claim for $12,000 in lost wages.

The applicant and one of his friends were tried and convicted on a charge of obstructing justice. He chose 15 days in jail rather than pay a $300 fine. His friend, who was wanted for murder in the U.S.A., was turned over to the U.S. authorities after sentencing.

The applicant told the Board he knew nothing of the circumstances surrounding the occurrence and suggested he was in the wrong place at the wrong time.

The Board did not find the applicant to be credible and found that he had failed to prove to the Board's satisfaction that he was a victim of crime in accordance with the terms of the Act and declined to make an award for compensation. Under Section 22 it awarded a police witness $81.00 for his costs.

FILE: 922-017927

An extension of the limitation period was granted for this application.

This application was brought forward by the father of a previous applicant (file: 200-8480) whose request for compensation, after having been stabbed several times on the left side of his chest and abdomen in an altercation on April 1, 1981, had been denied by the Board. Since that applicant's behaviour had contributed to his injury the Board had based its denial of the application on the provisions of Section 17 (1).

This application presented a claim for out-of-pocket expenses including $12,480.00 for room and board, $200.00 for transportation to hospitals, doctors' appointments and rehabilitation, $100.00 for personal items and $100.00 for medication all provided to the alleged victim.

The Board ruled that in considering this application it was bound by the findings in the previous decision and that it was not prepared to re-examine the applicability of Section 17 (1). The Board having found that the alleged victim's conduct had led it to deny him

compensation in his application found that the same conduct led it to deny compensation to this applicant

The Board noted that though it was not required to rule on the additional issues which arose from the context of this application but it would do so in order to provide further understanding of its decision.

The applicant deemed himself to be "a person responsible for the maintenance of the victim" as set out in Section 5 (e). The onus was of course on the applicant to so satisfy the Board. The alleged victim was a 22 year old unemployed man at the time of the occurrence. The Order dealing with his claim noted that he appeared to have made a complete recovery from his wounds. The alleged victim did not testify at the present Hearing. Indeed the applicant testified that his son was unaware of the present application nor was it, in his view, of any concern to his son. Though this applicant admitted his lack of medical credentials he testified that in his view his son had been disabled until March, 1985. No medical documentation however was presented to support this aspect of the claim. The applicant provided some very general information about the welfare payments his son had received and out of which he had apparently paid his mother $20.00 a week for room and board. However, the applicant provided no documentation in support of his claim for the expenses under the various headings previously listed.

The Board, moving beyond the considerations arising from Sections 5 (a) and 17 (1) of the Act and having carefully considered all the evidence, was not satisfied that the applicant was a person responsible for the maintenance of the victim under Section 5 (e) and further deemed that there was inadequate evidence to quantify the claim presented.

The offender, originally charged with attempted murder, was sentenced to two years less a day on a charge of wounding.

The Board, under the provisions of Section 22, ordered payment of $300.00 to the applicant's solicitor for the professional services provided in bringing forward the application.

FILE: 922-018268

With the applicant's consent, this application was considered solely on the basis of the documentation filed.

The applicant was the 38 year old common-law spouse of a manager and part-owner of a restaurant who was stabbed to death on March 31, 1987 while he was trying to quiet some noisy patrons.

The applicant who has emigrated, applied for financial support for herself and a daughter born December 27, 1978, whose birth certificate bears the surname of the deceased.

Income tax records submitted to the Board indicate a wage income at the time of the victim's death equivalent to $14,480.00 annually. The applicant will now be receiving monthly benefits from the WCB, CPP and from a life insurance policy in addition to the lump sums paid from those sources. There was said to be a debt outstanding but the lump sum payments themselves exceed the amount of the debt listed. The applicant will be in receipt of $18,737.76 annually, an amount well in excess of her deceased spouse's reported annual income.

The funeral expenses were paid by the victim's employer.

The alleged offender was apprehended initially but has not yet been brought to trial.

The Board found that the applicant had not proven to its satisfaction that she had suffered pecuniary loss as a result of the death of her common-law husband and therefore declined to award compensation

FILE: 922-015218

The applicant was a 52 year old woman who stopped by to visit a friend on June 21, 1985 about 3:50 PM. Her longstanding friend had recently begun living with the male owner of a German Shepherd dog which was apparently allowed to run freely. The applicant had visited her friend twice previously while the dog was present without problems, once only two days before this visit. On this occasion she was greeted by the dog when she arrived; he licked her hand and she petted him. Later while she and her friend were having a cup of tea on the lawn, with the friend's fourteen month old child nearby in a playpen, the applicant leaned forward to touch her friend on the leg. The dog suddenly attacked the applicant from behind biting her about the head, right shoulder and both upper arms. It also clawed her back. With the help of her friend she made it back into the house where her friend called the police.

The applicant, who was taken to hospital by ambulance, had three scalp lacerations, of 12, 5 and 4 cms. respectively requiring a total of 80 sutures. She had also received puncture wounds to the right shoulder, upper back and both upper arms. Though the sutures were removed in about a week's time the applicant continues to suffer from a diffuse tenderness in the affected areas for which codeine has been prescribed. Extensive emotional trauma and a mild depression have resulted from this attack.

For any applicant to be compensable he or she must establish the existence of a crime of violence as described in Section 5 (a) of the Act. The constable who already had considerable experience of large dogs before he investigated this occurrence testified before the Board that he was alarmed by this dog. A Provincial Court Hearing in December, 1985 ordered the dog destroyed but by that time both dog and owner had disappeared. The constable testified that the police had been unable to find evidence of previous attacks by the dog. The applicant produced two affidavits, one claiming, but without direct proof, that this dog had been responsible for the death of his poodle and another that the dog had attempted twice in one day to bite at the legs of a female cyclist riding by. However, though the applicant testified her friend had claimed that the dog was a nuisance, there was no suggestion that it was violent nor did there seem to be any concern for the safety of the fourteen month old child.

The Board having given careful consideration to the evidence presented, accepting that clearly there had been a vicious attack with serious consequences for the applicant, was unable to find a history of violence on the part of the dog which would constitute criminal negligence on the part of its owner as described in Section 5 (a) and therefore denied the application.

However, under Section 22 it ordered the payment of $450.00 in legal fees and $180.50 in disbursements to the solicitor and travel costs of $45.00 and $46.50 to the applicant and the police witness respectively for total payments of $722.00.

FILE: 200-9189

This Hearing was scheduled to be held in camera but the Board having considered the matters at issue proposed and declared the Hearing to be open. At the start of the Hearing the counsel for the applicant noted the presence with his counsel of an alleged offender, who had been involved in a civil suit with the applicant over the same matter which brought him before the Board. Since that action had been discontinued with both sides bearing their own costs the Board after discussion and reflection advised the alleged offender and his counsel that they need not attend the Hearing further and that, in the event compensation were to be awarded the applicant, there would be no order for subrogation against this alleged offender. These two then left.

At the time of the occurrence, February 7, 1981, the applicant was a 32 year old male recipient of WCB benefits employed as an apartment building owner/manager. On that evening the applicant and his wife were present at a very well-attended fund-raising event being held in a social centre. The highlight of the evening's proceedings was a presentation of Italian folk dances. When this performance began about 21:00 the applicant testified that he and others stood up to get a better view. Others protested. The applicant testified that one of the three people seated at the table behind him got up to seize him but was restrained. The applicant then advanced to the front, was then pulled by the arm by an unknown person, knocked to the ground unconscious and sustained his injuries.

The applicant then went to the office of the Club's president where he also met the treasurer, who was present at the Hearing. The applicant testified that he urged them to seek out his assailant and to summon the police. He claimed he was told that they would see to everything and that they desired to regulate their own affairs without police involvement. This was his explanation for his prolonged stay in the office. About 23:00 he went to a pay phone with his wife and placed a call to the OPP. When the police arrived he took them to the area where the three people had been sitting but they were gone.

The police officer testified that at no time did the applicant inform him that he had been knocked unconscious. Had that been the case the officer would have sent the applicant to hospital in an ambulance. Nor did he inform him that two hours had already elapsed since the time of the assault. The officer also testified that the senior administration of the Club, including the member present at the Hearing, had informed him that the applicant had been a troublemaker that night and had started the fight by beating up an "old man". The treasurer testified that this was a terrible mistake since he was not passing on personal knowledge but only hearsay. He stated that he had been occupied either in his office or keeping an eye out for possible troublemakers in the parking lot.

The applicant had given the name of an offender in his original application. The police officer testified that the applicant had not given him this information even though he had been requested to pass on to the OPP any information which should come to his attention. Subsequently the name had been changed to that of the alleged offender referred to in the preamble to this order.

The applicant was then taken to a hospital where his injuries were diagnosed as a comminuted fracture of the mid-shaft of the ulna with a slight displacement of the distal fragment. Subsequently a bone graft and plate fixation were carried out. The bone union was uncomplicated but there was considerable wrist discomfort until the plate was removed. The applicant however suffered another break in virtually the identical area in June 1981 from a sudden movement while lying on the floor. He still feels pain, possibly a post-traumatic neuralgia, whose persistence is difficult to predict but the forearm is now well-healed.

The applicant's claim was basically for pecuniary loss and additional expenses incurred in the management of his apartment building because of his incapacity, for pain and suffering and a variety of miscellaneous expenses and disbursements in pursuing this application.

The Board in its determination whether or not the applicant was a victim of a crime of violence pursuant to Section 5 (a) also had to take into consideration the provisions of Section 17 (1) and (2). Sub-section (1) refers to an applicant's actions which may have directly or indirectly contributed to his injury while sub-section (2) refers to reporting and co-operation with law enforcement agencies. Guided by these statutory provisions and after careful consideration of all the evidence the Board found that on a preponderance of credible evidence the applicant had failed to establish that he was a victim of a crime of violence as stipulated in the Act. It therefore declined to make an award.

As noted no assailants had ever been identified, charged or convicted with respect to this occurrence.

The Board according to the provisions of Section 22 ordered the payment of legal fees $450.00 and disbursements of $783.00 for a total costs award of $1,233.00.

FILE: 922-016465

This application was brought by a father on behalf of his 13 year old daughter who injured her left forearm in an incident at a public school on October 22, 1985. After the Board assured itself that she understood the nature and consequences of an oath the girl testified at the Hearing that about 8:30 AM that day she had gone into the school to get a drink of water. When she turned to go back outside, using the left side of a double door with wired glass windows in the upper half opening to the outside by the use of a panic bar, the alleged offender held the door shut. She did not attempt to exit by the right door since she felt the boy would only move over and hold that door shut as well. They could see each other through the window and, as the girl described it, they were smiling at each other. However, her hand slipped on the panic bar and her left wrist was bent back. She went to the school office to report her injury. The secretary called the father, the applicant, who drove his daughter to the hospital.

A teacher, who saw the girl in the school immediately after the incident, testified at the Hearing. He did not see any swelling or bruising but since the child complained of pain agreed that her father sould be notified. He recalled speaking to the boy about his 'dumb stunt' but at no time considered this a police matter. Both children were in his view 'good kids'.

The applicant's daughter was at the hospital for about two hours. The doctor noted minimal swelling and tenderness over the left distal radius. An x-ray proved negative. The diagnosis was strain of the left forearm and the girl was advised to apply ice, wear a tensor bandage and rest the wrist for a couple of weeks. The girl returned to school that afternoon and wore the bandage for two weeks. Her left forearm and wrist were then back to normal.

This matter was not reported to police.

The solicitor indicated at the start of the Hearing that the applicant's position was that his daughter had been injured in a crime of violence namely assault. While it appeared from the evidence that the boy had initiated the incident by holding the door shut it would appear that the girl had been a willing participant in that type of playful activity often indulged in by thirteen year olds. The Board found that the girl's injury was accidental and not the result of a crime of violence as defined in Section 5 of the Act. The application was therefore denied.

However, under Section 22 the Board ordered payment to the solicitor of $45.00 for hospital records and $27.00 as a fee to the witness for total costs of $72.00.

FILE: 922-016735

The applicant, then a 17 year old student, was injured in an altercation while tobogganing in a park shortly before midnight on December 27, 1985. The Board heard and considered the testimony of the applicant, the submissions of his counsel as well as the testimony of the investigating police officer. It also considered the transcript of the evidence at the trial.

The applicant told the Board that he had consumed 8-9 ounces of rye in the couple of hours that he was tobogganing prior to the occurrence and would have been impaired at the time. The Board noted that drinking by a minor in a public place is illegal. As the applicant climbed the hill he deliberately kicked a tobaggan coming down the hill loaded with two passengers nor did he even turn to see if he had caused damage or problems. When he reached the top he told his friends what he had done and admitted before the Board that someone else might have thought that he was bragging about it. Later when the owner of the kicked toboggan, the offender, demanded an explanation for his action a scuffle immediately developed which was broken up by their mutual friends. The applicant felt that the result had been even since no one was hurt. Another scuffle broke out between the two 20 minutes later but was again broken up by their friends. By this time it seemed clear that the applicant was determined to settle the matter with a fight. He

persuaded the offender to go off about a 100 yards where they both took off their coats. The offender rapidly got the best of the applicant, knocked him to the ground and kicked him three times to the head. The applicant remembered nothing until he awoke in hospital.

The applicant was hospitalized for four days with multiple bruises and lacerations to the face and head as well as fractures of the right zygoma and the right orbital floor which required surgical repair. The injuries healed in about a month except for a continuing numbness on the right side of his cheek, nose and upper lip. There were headache problems for a year.

The Board considered carefully all the evidence submitted including the nature of the injuries and the continuing disability. Though it found the applicant to be an honest and credible witness whose demeanor did not suggest a person normally so ready to engage in a fight it was the view of the Board that his alcoholic consumption had influenced his careless and reckless behaviour. He had initiated the occurrence by kicking at the toboggan, a potentially dangerous action. He had been quite willing to get into two fights from which his friends had pulled him back. Despite that he went into a third fight in a place where he would not be disturbed. He had also willingly taken part in a fight with a stranger who had shown in the previous scuffles that he was ready to kick as well as punch. It would not have been unreasonable to expect that there would be kicking in the third fight. Though it was clearly reprehensible for the offender to have kicked him to the head after he had been knocked down, that was a matter for the criminal courts.

The Board after careful consideration of the applicant's behaviour and injuries concluded that his behaviour directly contributed to the injuries he received and cited the provisions of Section 17 (1) as it denied the application.

However, under Section 22 it authorized payment for certain costs in bringing forward the application: $525.00 to the applicant for money owing to his father for medical and court records; $60.00 to the police investigator for his appearance; $350.00 to the solicitor for his assistance to the Board and $35.00 for his travel expenses for total authorized payments of $970.00.

FILE: 922-017394

The 21 year old male applicant, an industrial mixer, was involved in the incident, which led to his appearance before the Board, about 4:00 PM on October 15, 1986. The applicant, who appeared before the Board without counsel, found the investigator's report acceptable and though advised of the potential application of Section 17 (1) decided to proceed despite the Board's offer of an adjournment to permit him to arrange for legal assistance.

The applicant, who was seeing the offender's sister, had been warned by him to stay away from her and had agreed to do so. However, he met with the young woman at a friend's home, became upset with the warning, phoned the offender and suggested a fight or a discussion of the matter. An acquaintance then took the phone and set up the rendezvous. The applicant showed up armed with a baseball bat. The offender walked towards him armed with his own baseball bat. The acquaintance then passed the applicant a knife, which he claimed remained sheathed. The offender struck first knocking the applicant to the ground and then striking him repeatedly with the bat. He then kicked the applicant in the face. When the applicant agreed to stop seeing his sister the offender drove away.

The applicant's sister called the police the next day after having seen his injuries. The applicant meanwhile had attended the hospital where he was interviewed by a police officer who testified before the Board. She advised, that in her opinion, the fight was consensual and that after further investigation by the regional police both applicant and offender had been convicted of possession of weapons dangerous to the public peace and placed on probation.

Hospital x-rays showed that the applicant had sustained a complex comminuted fracture of the infra-orbital rim on the right side. The right side of the face was swollen. There was also a subconjunctival hemorrhage. An attempt was made to repair the right cheekbone but because of the complexity of the injury the applicant was transferred to another hospital where an operation was performed on October 19th to wire the bone fragments in the orbital rim. The nasal fracture was also repaired by open reduction and a splint applied. The splint and sutures were removed on October 27th and the applicant was able to return to work on November 3, 1986. No further treatment was undertaken and the applicant told the Board he was fully recovered. His nose was straight.

The Board found that the applicant was aware of the offender's ill-will, that he had called the offender and that his acquaintance had set up the meeting as part of the same call. By his own testimony he had expected a fight and had armed himself with a baseball bat. The Board accepted as well the testimony of the police officer that the acquaintance had carried a knife to the meeting place and, having determined that the offender had a knife, had given his knife to the applicant, who took possession of the weapon until it was dropped in the ensuing fight.

The Board in reaching a decision is guided by the

provisions of Section 17 (1) which directs it to have regard to all relevant circumstances including any behaviour on the victim's part which may have directly or indirectly contributed to his injury. Having considered all the evidence, both oral and documentary, it found that the applicant had failed to establish that he was a victim of a crime of violence as envisaged under Section 5 (a) of the Act and declined to award compensation.

FILE: 922-012976

The applicant having been duly informed of the hearing and having failed to appear, the Board under the provisions of The Statutory Powers Procedure Act proceeded to hear the application based on the documentation filed.

On September 7, 1983 the applicant's thirteen year old son was selling chocolate bars door to door. He was turning away from a door where there had been no answer when he suddenly heard a noise. As he suddenly turned in response a large dog jumped up at him and bit him on the left ear. The boy ran away bleeding while the owner who had been working on a car in the driveway with some friends called the dog back.

The boy was treated in hospital where 18 sutures were required to repair the laceration to his ear.

The incident was investigated by police and a hearing under the Dog Owners Liability Act was held on September 7, 1984. As a result the owner was ordered to have the dog well tied while on his property and kept on a leash when off.

In order for a victim to be compensable it must be established that a crime of violence as described in Section 5 (a) of the Act has occurred, in this case, an act of criminal negligence. It would have been necessary to prove that the owner knew the dog was dangerous and had shown wanton or reckless disregard for the lives and safety of others. The police could find no such evidence.

The Board concurred with the findings of the police investigation and denied the application. However, under Section 22 it reimbursed the applicant for the cost of a medical report for a total award of $10.00

FILE: 922-013078

The applicant having failed to appear, the Board, pursuant to the provisions of Section 7 of The Statutory Powers Procedure Act, proceeded to consider the application on the documentary evidence filed and the oral testimony of one of the investigating police officers.

The applicant was a 23 year old employee of a car manufacturing plant who was attending a tavern about 1:00 AM on March 31, 1984. His brother had been outside with three women when two men made some derogatory remarks about the group before continuing on their way. The brother entered the tavern, sought out the applicant and informed him of this incident. The two brothers proceeded outside and down the street after the two men ostensibly to settle the score. They then each fought one of the two men. The applicant fought the larger, the alleged offender, in a fight which was not visible to the other combatants who were fighting around the corner. In any event a knife was drawn, the applicant received two stab wounds and these two combatants returned to the tavern by different routes. The police witness testified that the deceased, the alleged offender, did not have a reputation for carrying a knife and it was the belief of the police investigators that the applicant had produced a knife and that the other combatant, now deceased, had managed to wrest it from him and use it to stab the applicant.

After returning to the tavern the applicant told his brother that he had been stabbed, and then collapsed. It was the opinion of the police officer that the applicant had armed himself, possibly with a tire iron, and had collapsed before he could use it. The brother now informed a cousin of the events which had taken place and this cousin then confronted the alleged offender and in the ensuing struggle produced a knife and stabbed him. This cousin was arrested and ultimately sentenced to two years plus four years probation for manslaughter.

The applicant was taken to hospital, diagnosed as suffering from multiple stab wounds, hospitalized and underwent surgical repairs. He was off work from March 31, 1984 until May 14, 1984. Medical reports indicate he is fully recovered. The claim before the Board was for pain and suffering and the net wage loss.

The Board in awarding compensation and the amount thereof is guided by the provisions of Section 17 (1) directing it to take into consideration any behaviour on the applicant's part which directly or indirectly contributed to their injury or death. The Board found that the applicant, probably armed with a knife, had sought out the offender and provoked the fight in which he received his injuries.

The Board having regard for all the relevant circumstances, including the applicant's conduct, the gravity of the injuries, the period of convalescence and the prognosis for the future found that the applicant had failed to establish by a preponderance of credible evidence that he was a victim of a crime of violence as stipulated in the Act and therefore declined to award compensation.

FILE: 922-016996

The 59 year old applicant was a painter who arrived with a friend at a centrally located restaurant between 7:00 and 8:00 PM on October 30, 1986 after having consumed 7 or 8 beers over a 4 or 5 hour period in 2 other hotel bars. When the applicant went to the basement washroom he noticed a man in an adjoining cubicle. The man exited and disappeared. The applicant came out from the cubicle, was hit from behind, lost consciousness, then regained it to find a man standing on his thumb and kicking him in the ribs. When the applicant was able to escape he locked himself in a cubicle. The alleged assailant ran up the stairs and reported to the waitress that the applicant had fallen down them.

The ambulance arrived and the police were called. According to the applicant there was no police investigation because of the information relayed by the waitress. When asked why he did not report the occurrence to the police himself, the applicant responded that it was the job of the police to have approached him. The hospital records note that the applicant told the hospital staff he had fallen down the stairs. The applicant couldn't explain why he didn't tell the truth to the hospital staff. The sole injury mentioned in the emergency records was a deep laceration over the patient's left occipital area for which he received 4 sutures which were removed a week later. A month after the incident the applicant returned to hospital complaining of a sore right thumb. The hospital record states that the thumb was neither sore nor red. Other reports referred to periodic pains above the hip joint which were consonant with early arthritis possibly exacerbated by the applicant's injuries.

The alleged offender is unknown.

The Board having carefully considered both the 'viva voce' testimony as well as the documentary evidence on file found that on a balance of probabilities the applicant's evidence was not credible and that the applicant received his injuries as the result of a fall and not as the result of a crime of violence. Accordingly it found that the applicant had failed to prove to its satisfaction that he is a victim of crime within the terms of the Act and declined to make an award.

FILE: 200-9223

VARIATION OF ORDER: Section 25. Documentary proceeding.

In an Order dated March 27, 1986 the Board found the applicant's husband who was assaulted and subsequently died of his injuries on September 21, 1981 to be a victim of a crime of violence and awarded the applicant funeral expenses. At that time it declined to make a finding on her application on behalf of herself and their five children born between 1968 and 1976 with respect to pecuniary loss pending the receipt of further documentation.

After a careful examination of all the documentation produced the Board determined the applicant to have sustained a net pecuniary loss of $440.00 per month. The Board therefore ordered payment to the applicant on her own behalf and on behalf of her five children of the sum of $31,240.00 representing an aggregate retroactive payment at that rate from October 1, 1981 through August 1, 1987 and continuing periodic (monthly) payments at the same rate subject to annual review and any material change in the applicant's personal affairs. Under Section 22 it also authorized the payment of $500.00 legal fees, $42.00 disbursements and a $50.00 fee to the interpreter at the Hearing for a total award of $31,832.00.

FILE: 200-158

VARIATION OF ORDER: Section 25.

At a Hearing held on April 28, 1971 the Board found that an application on behalf of her son, born September 26, 1964 qualified and ordered compensation paid to the applicant for a number of expenses. At the time the Board postponed determination of an award for the victim's pain and suffering and possible future loss of earnings with the intention of reviewing his physical condition and need for assistance from time to time.

On November 5, 1976 the Board ordered payment of $200.00 per month to cover the period April, 1971 to October, 1976 and $500.00 per month effective November 1, 1976 for pain and suffering.

During a review Hearing in January, 1988 the victim told the Board that he gets occasional employment at minimum pay rates but has been unable to obtain steady work. He felt that this was due to the scarring of his face and neck and the restricted use of his left hand. The Act was amended in November, 1986 to allow for increased maximum periodic awards of $1,000.00 a month. The Board therefore ordered payment of $7,000.00 to bring his monthly award from December, 1986 to January, 1988 up to the maximum amount. The Board ordered the continuing monthly payments to be paid in the amount of $1,000.00 as of February, 1988 subject to periodic review. In accord with the original order, and at the request of the victim now the applicant, these payments will continue to be paid in to the Accountant of the Supreme Court of Ontario to the applicant's credit and held until he reaches the age of 25 on September 26, 1989.

The Board drew the applicant's attention to the provisions of Section 19 (2) (b) of the Act which states that the total periodic payments with respect to any one occurrence shall not exceed $250,000.00.

FILE: 200-1287

VARIATION OF ORDER: Section 25.

After a Hearing held on August 25, 1976 the Board awarded this applicant $6,000.00 for pain and suffering due to a shoulder injury.

The Board was advised that the applicant continues to suffer a great deal of pain from his injury. The applicant's physician states that physiotherapy and steroid injections have been of little benefit. He also suffered a stroke in October, 1985 that resulted in left hemiparesis and has increased the pain in the left shoulder. The degree of disability has increased somewhat though the pain level continues at about the same level as over the last ten years.

Under Section 25 the Board awarded the applicant a further $4,000.00 for pain and suffering. It also authorized a payment of $25.00 7 (1) (a) to the physician for his report. The total award under this variation is therefore $4,025.00.

FILE: 100-332

This is a variation on an order originally issued in March, 1972.

The applicant was originally found qualified by the Board in a Hearing held February 29, 1972 and awarded compensation for pain and suffering. Now 57 years old, the applicant applied under Section 25 because of ongoing medical problems directly related to the injuries received on December 22, 1968.

The applicant both testified again before the Board and provided considerable documentation on dental, bladder and urethral problems through the 1970's and 1980's. The WCB has accepted the bladder problems as a consequence of the 1968 injuries and has paid his salary as well as the cost of medicines and dental treatment.

There have also been problems with sexual dysfunction but the medication prescribed had to be discontinued due to unwanted side effects. The applicant feared that he might require a ureticoileostomy in the future. He was advised to contact the Board under Section 25 should this occur.

The Board found the application qualified under Section 5 (b) and had regard for all the medical difficulties the applicant had encountered since the original Hearing as it awarded a further $5,000.00 pain & suffering 7 (1) (d) and $35.00 other pecuniary loss 7 (1) (f) for a total award under this variation of $5,035.00.